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PART I

April 21, 1975—Pages 17537–17742

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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

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PCPM—Annual real property inventories 12790; 3–21–75

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

H.J. Res. 335 ..... Pub. Law 94–16
Commodity Futures Trading Commission Act of 1974, extension
(April 16, 1975; 89 Stat. 77)

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Title 3—The President

EXECUTIVE ORDER 11853

Amending Executive Order No. 11829,[1] Relating to the Hopi-Navajo Land Settlement Interagency Committee

By virtue of the authority vested in me by Section 1(c)(2) of the Act to provide for final settlement of the conflicting rights and interests of the Hopi and Navajo Tribes concerning lands within the reservation established by the Executive order of December 16, 1882, and lands within the reservation created by the Act of June 14, 1934, and for other purposes (Public Law 93-531, approved December 22, 1974, hereinafter referred to as the Act), and as President of the United States of America, Section 2(a) of Executive Order No. 11829 of January 6, 1975, is hereby amended to read as follows:

"Sec. 2. *Functions of the Committee.* (a) The Committee shall, to the extent permitted by law, and as provided by Section 1(c)(2) of the Act, develop relevant information for and respond to the requests of the Mediator who shall be appointed by the Director of the Federal Mediation and Conciliation Service pursuant to Section 1(a) of the Act, in order to facilitate the expeditious and orderly compilation and development of factual information relevant to the negotiation process established by the Act."

Gerald R. Ford

THE WHITE HOUSE,
April 17, 1975.

[FR Doc.75-10444 Filed 4-17-75;1:50 pm]

[1] 40 FR 1497.

rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that one position of Staff Assistant to the Special Assistant to the Secretary of Defense is no longer excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER, § 213.3306(a)(15) is revoked as set out below.

§ 213.3306 Department of Defense.

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

(15) [Revoked]

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[FR Doc.75-10369 Filed 4-18-75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to reflect a title change from Administrative Aide to Program Assistant.

Effective on publication in the FEDERAL REGISTER, § 213.3384(a)(31) is amended as set out below.

§ 213.3384 Department of Housing and Urban Development.

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

(31) One Special Assistant to the Secretary, One Program Assistant, and One Administrative Aide.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[FR Doc.75-10370 Filed 4-18-75;8:45 am]

PART 213—EXCEPTED SERVICE

Indian Claims Commission

Section 213.3345 is amended to show the change in title from one Private Secretary to a Commissioner to one Private Secretary to the Chairman.

Effective on publication in the FEDERAL REGISTER, § 213.3345(a) is amended as set out below.

§ 213.3345 Indian Claims Commission.

(a) One Private Secretary to the Chairman and one Private Secretary to each of the other four Commissioners.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[FR Doc.75-10371 Filed 4-18-75;8:45 am]

PART 213—EXCEPTED SERVICE

Small Business Administration

Section 213.3332 is amended to show the change in title from Special Assistant to the Assistant Administrator for Minority Enterprises to Special Assistant to the Associate Administrator for Minority Small Business.

Effective on publication in the FEDERAL REGISTER, § 213.3332(p) is amended as set out below.

§ 213.3332 Small Business Administration.

* * * * *

(p) Two Special Assistants to the Associate Administrator for Minority Small Business.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

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

[FR Doc.75-10373 Filed 4-18-75;8:45 am]

PART 213—EXCEPTED SERVICE

U.S. International Trade Commission

Section 213.3339 is amended to show that one position of Staff Assistant (Economics) to a Commissioner is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER, § 213.3339(g) is added as set out below.

§ 213.3339 U.S. International Trade Commission.

* * * * *

(g) One Staff Assistant (Economics) to a Commissioner.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–1958 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

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

[FR Doc.75-10372 Filed 4-18-75;8:45 am]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 331—PLANT PEST REGULATIONS GOVERNING INTERSTATE MOVEMENT OF CERTAIN PRODUCTS AND ARTICLES

Subpart—Oriental Fruit Fly

TERMINATION OF NOTICE OF EXISTENCE OF EMERGENCY AND REGULATIONS RELATED THERETO

The notice of existence of emergency and regulations related thereto with respect to the oriental fruit fly, in 7 CFR 331.4 (39 FR 36465), are hereby terminated effective May 21, 1975. However, such provisions shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to said date.

Statement of considerations. An intensive eradication program was begun in September 1974 when an oriental fruit fly infestation was discovered in San Diego County, California. Federal emergency regulations were established October 10, 1974, in order to prevent the artificial spread of the pest through interstate movement of host material from the infested areas into noninfested areas. Male and female annihilation treatments were applied. In addition, the trapping program was intensified and a regulated area of 315 square miles defined. The last fly was trapped on January 21, 1975. The trapping program has continued since that time. Eradication is considered complete after 120 days (three generations of the fly) have passed without trapping an adult fly.

Accordingly, the oriental fruit fly notice of existence of emergency and regulations related thereto are terminated effective May 21, 1975.

It does not appear that public participation in rulemaking procedures concerning this action would make additional relevant information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public participation with respect to this action is impracticable, unnecessary, and contrary to the public interest.

(Sec. 105, 71 Stat. 32, sec. 106, 71 Stat. 33, sec. 107, 71 Stat. 34 (7 U.S.C. 150aa–150jj); 37 FR 28464, 28477, 38 FR 19141)

The foregoing termination of notice of existence of emergency and regulations related thereto shall become effective May 21, 1975.

Done at Washington, D.C. this 16 day of April 1975.

T. G. DARLING,
Acting Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.75-10381 Filed 4-18-75;8:45 am]

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

[Navel Orange Regulation 347, Amendment 1]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Navel oranges that may be shipped to fresh market during the weekly regulation period April 11–17, 1975. The quantity that may be shipped is increased due to improved market conditions for Navel oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 907.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Navel Orange Regulation 347 (40 FR 16212). The marketing picture now indicates that there is a greater demand for Navel oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Navel oranges to fill the current market demand thereby making a greater quantity of Navel oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Navel oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1) (i), and (ii) of § 907.647 Navel Orange Regulaton 347 (40 FR 16212) are hereby amended to read as follows:

§ 907.647 Navel Orange Regulation 347.

* * * * *

(b) * * *

(1) * * *

(i) District 1: 1,403,000 cartons;

(ii) District 2: 247,000 cartons.

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

Dated: April 16, 1975.

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

[FR Doc.75-10294 Filed 4-18-75;8:45 am]

[Valencia Orange Regulation 493, Amendment 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period April 11–17, 1975. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 493 (40 FR 16213). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grow in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(iii) of § 908.793 (Valencia Orange Regulation 493) (40 FR 16213) are hereby amended to read as follows:

§ 908.793 Valencia Orange Regulation 493.

* * * * *

(b) * * *

(1) * * *

"(iii) District 3: 200,000 cartons."

* * * * *

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

Dated: April 16, 1975.

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

[FR Doc.75-10380 Filed 4-18-75;8:45 am]

CHAPTER X—AGRICULTURE MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

PART 1101—MILK IN KNOXVILLE, TENN., MARKETING AREA

CFR Correction

In the January 1, 1975 revised volume of Title 7 (Parts 1060–1119), the text of Part 1101 was inadvertently omitted and should be inserted to read as follows:

PART 1101—MILK IN KNOXVILLE, TENN., MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS AND DEFINITIONS

Sec.

Sec.
1101.11 Handler.
1101.12 Producer.
1101.13 Producer milk.
1101.14 Other source milk.
1101.17 Fluid milk product.
1101.18 Filled milk.

MARKET ADMINISTRATOR

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1101.80 Time and method of payment for producer milk.
1101.81 Producer-settlement fund.
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1101.84 Adjustment of errors in payment.
1101.85 Butterfat and location differentials to producers.
1101.86 Statement to producers.
1101.87 Expense of administration.
1101.88 Marketing services.

APPLICATION OF PROVISIONS

1101.90 Producer-handlers.
1101.91 Plants subject to other Federal orders.
1101.92 Obligations of handler operating a partially regulated distributing plant.

AUTHORITY: The provisions of this Part 1101 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

SOURCE: The provisions of this Part 1101 appear at 19 F.R. 7711, Nov. 30, 1954, unless otherwise noted. Redesignated at 26 F.R. 12752, Dec. 30, 1961.

GENERAL PROVISIONS AND DEFINITIONS

§ 1101.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

[36 F.R. 9854, May 29, 1971]

§ 1101.5 Knoxville, Tenn., marketing area.

The "Knoxville, Tenn., marketing area" hereinafter called the "marketing area" means all the territory geographically within the boundaries of the following counties, all in the State of Tennessee, including all territory wholly or partly therein occupied by Government (Municipal, State, or Federal) reservations, installations, institutions, or other similar establishments.

Anderson.
Blount.
Campbell.
Cocke.
Cumberland.
Grainger.
Hamblen.
Jefferson.
Knox.
Loudon.
Morgan.
Roane.
Scott.
Sevier.
Union.

[32 F.R. 3338, Feb. 28, 1967]

§ 1101.6 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and is authorized by its members to make collective sales or to market milk or its products for the producers thereof.

§ 1101.7 Producer-handler.

"Producer-handler" means any person who:

(a) Operates a dairy farm and an approved plant from which Class I milk is disposed of on routes in the marketing area;

(b) Receives no fluid milk products from other dairy farmers or from sources other than pool plants;

(c) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing, packaging and distribution business are the personal enterprise and risk of such person.

[34 F.R. 18703, Nov. 22, 1969]

§ 1101.8 Approved plant.

"Approved plant" means the premises, buildings and facilities of any milk processing or packaging plant from which Grade A milk or skim milk is shipped during the month to a pool plant, on or from which Class I milk is disposed of during the month on routes (including routes operated by vendors and sales through plant stores) in the marketing area: *Provided*, That if the appropriate health authority does not permit a portion of such plant to be used for the handling of milk or milk products to be distributed under a Grade A label, such portion of the plant shall not be considered as part of the approved plant.

§ 1101.9 Pool plant.

"Pool plant" means:

(a) An approved plant from which a volume of Class I milk, except filled milk, equal to not less than 50 percent of its receipts of producer milk and milk and skim milk from other pool plants is disposed of during the month on routes (including routes operated by vendors) to retail or wholesale outlets (including plant stores): *Provided*, That not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area; and

(b) An approved plant from which at least 50 percent of the hundredweight of its producer milk received during the month is shipped in the form of milk, skim milk or cream to a plant qualified pursuant to paragraph (a) of this section and classified as Class I milk: *Provided*, That if such shipments amount to not less than 65 percent of the producer milk of such plant during each of the preceding months of August through February, such plant may, upon written application to the market administrator on or before March 1 of any year be designated as a pool plant for the months of March through July of such year.

[34 F.R. 18703, Nov. 22, 1969]

§ 1101.10 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products are shipped to a pool plant.

[34 F.R. 18703, Nov. 22, 1969]

§ 1101.11 Handler.

"Handler" means (a) any person in his capacity as the operator of one or more pool plants, (b) any person who operates a partially regulated distributing plant, (c) a cooperative association with respect to milk diverted for its account pursuant to § 1101.12; or (d) a producer-handler or any person who operates an other order plant described pursuant to § 1101.91 (a) or (b).

[29 F.R. 10896, July 30, 1964]

§ 1101.12 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1101.13 from a pool plant to a nonpool plant.

[32 F.R. 3338, Mar. 28, 1967]

§ 1101.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in milk:

(a) Received at a pool plant directly from a producer; or

(b) Diverted from a pool plant to a nonpool plant that is not an other order plant (except such a plant fully subject to the provisions of Part 1090 (Chattanooga, Tenn.) of this chapter) or a producer-handler plant, subject to the following:

(1) Milk so diverted for the account of a handler operating a pool plant shall be deemed to have been received by the handler at the pool plant from which diverted and if diverted for the account of a cooperative association, shall be deemed to have been received by the cooperative association at the location of the pool plant from which diverted;

(2) In any month of September through February that less than 4 days' production of a producer is delivered to pool plants, the quantity of milk of any such producer diverted during the month that exceeds that delivered to pool plants shall not be deemed to have been received at a pool plant and shall not be producer milk unless 4 or more days' production of such producer was delivered to pool plants in the immediately preceding month;

(3) A cooperative association may divert for its account the milk of any member-producer: *Provided*, That in any month of September through February, the total quantity of milk so diverted that exceeds 35 percent of the milk physically received from member-producers at all pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(4) The operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association: *Provided*, That in any month of September through February the total quantity of milk so diverted that exceeds 35 percent of the milk physically received at such pool plant during the month from producers who are not members of a cooperative association shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to subparagraph (3) and (4) of this paragraph. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

[32 F.R. 3338, Feb. 28, 1967]

§ 1101.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in: (a) Receipts during the month in the form of products designated as Class I milk pursuant to § 1101.41(a) except (1) such products received from other pool plants, or (2) producer milk; and (b) products designated as Class II milk pursuant to § 1101.41(b)(1) from any source (including those from a plant's own production), which are reprocessed or converted to another product in the plant during the month.

§ 1101.17 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, filled milk, flavored milk, flavored milk drinks, cream, and any cream product except frozen cream and ice cream mix. This definition shall not include a product which contains 6 percent or more nonmilk fat (or oil).

[34 F.R. 18703, Nov. 22, 1969]

§ 1101.18 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted or modified by the addition of nonfat milk solids), with or without milkfat, so that the product including stabilizers, emulsifiers or flavoring) resembles milk or any other fluid milk proluct, and contains less than 6 percent nonmilk fat (or oil).

[34 FR 18703, Nov. 22, 1969]

MARKET ADMINISTRATOR

§ 1101.22 Additional duties of the market administrator.

In addition to the duties specified in § 1000.3(c) of this chapter, the market administrator shall perform the following duties:

(a)—(i) [Reserved]

(j) Publicly announce on or before:

(1) The fifth day of each month:

(i) The Class I price for the following month, and for the first month for which this paragraph is effective, the Class I price for the current month;

(ii) The Class I butterfat differential for the current month; and

(iii) The Class II price and Class II butterfat differential, both for the preceding month; and

(2) The 10th day of each month, the uniform price and the producer butterfat differential, both for the preceding month;

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1101.46(a)(9) and the corresponding step of § 1101.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1101.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

[19 F.R. 7711, Nov. 30, 1954, as amended at 29 F.R. 10896, July 30, 1964; 36 F.R. 9854, May 29, 1971; 37 F.R. 2939, Feb. 10, 1972]

REPORTS

§ 1101.30 Reports of receipts and utilization.

(a) On or before the 6th day after the end of each month each handler shall report for each pool plant for such month to the market administrator in the detail and on forms prescribed by the market administrator:

(1) The quantities of skim milk and butterfat contained in producer milk;

(2) The quantities of skim milk and butterfat contained in fluid milk products received from other handlers;

(3) The quantities of skim milk and butterfat contained in other source milk;

(4) Inventories of fluid milk products on hand at the beginning and end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the route disposition of Class I milk outside the marketing area and a statement showing separately in-area and outside area route disposition of filled milk; and

(6) Such other information with respect to his receipts and utilization of butterfat and skim milk as the market administrator may prescribe;

(b) Each handler specified in § 1101.11(b) who operates a partially regulated distributing plant, shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk and the quantity of reconstituted skim milk in such disposition.

[29 F.R. 10397, July 30, 1964, as amended at 33 F.R. 18228, Dec. 7, 1968; 34 F.R. 18703, Nov. 22, 1969]

§ 1101.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe;

(b) Each handler receiving milk from producers shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer:

(i) The total pounds of milk received from such producer or cooperative association;

(ii) The days on which milk was received from such producer, if less than a full month;

(iii) The average butterfat content of such milk; and

(iv) The net amount of such handler's payment, to each producer or cooperative association, together with the price paid and the amount and nature of any deductions; and

(2) On or before the first day other source milk is received in the form of fluid milk products at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product.

(c) Each handler who is the operator of a partially regulated distributing plant pursuant to § 1101.11(b) and who does not elect to make payments as required pursuant to § 1101.92(b), shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each of his plants his dairy farmer payroll for such month which shall show for each dairy farmer:

(1) His name and address;

(2) The total pounds of milk received from such dairy farmer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, to each dairy farmer, together with the price paid and the amount and nature of any deductions.

[19 F.R. 7711, Nov. 30, 1954, as amended at 29 F.R. 10897, July 30, 1964; 33 F.R. 18228, Dec. 7, 1968]

§ 1101.34 Reports to cooperative associations.

On or before the 15th day after the end of each month, the market administrator shall report to each cooperative association as described in § 1101.88 (b), upon request by such association, the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler deceiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handlers were used in each class.

Classification of Milk

§ 1101.40 Skim milk and butterfat to be classified.

The skim milk and butterfat at pool plants, which is required to be reported pursuant to § 1101.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 1101.41 through 1101.46.

§ 1101.41 Classes of utilization.

Subject to the conditions set forth in §§ 1101.42 through 1101.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of from the plant in the form of fluid milk products except:

(i) Any product fortified with added milk solids shall be Class I in an amount equal only to the weight of an equal volume of a like unfortified product of the same butterfat content; and

(ii) Products classified pursuant to paragraph (b) (3) of this section;

(2) In inventory of fluid milk products designated as Class I milk pursuant to subparagraph (1) of this paragraph; and

(3) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any item other than those specified in paragraph (a) of this section;

(2) In fluid milk products which have been fortified with nonfat milk solids which were excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(3) Disposed of and used for livestock feed or skim milk dumped after prior notification to, and opportunity for verification by the market administrator;

(4) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1101.42(c); and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1101.42(b) (2).

[29 F.R. 10897, July 30, 1964]

§ 1101.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat in the pool plant(s) of the handler;

(b) Prorate the resulting amount to:

(1) Receipts of skim milk and butterfat contained in (i) producer milk (except milk diverted pursuant to § 1101.12), (ii) receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(2) Receipts of skim milk and butterfat in other source milk, exclusive of that specified in subparagraph (1) of this paragraph; and

(c) Multiply the pounds of shrinkage in skim milk and butterfat, respectively, prorated pursuant to paragraph (b) (1) of this section not to exceed 2.5 percent of the pounds of skim milk and butterfat, respectively, in receipts described therein by the percentage of skim milk and butterfat classified pursuant to § 1101.41(a) and (b) (1) through (3) which is in Class II milk. The resulting amount shall be the pounds of skim milk and butterfat assigned to Class II milk pursuant to § 1101.41(b) (4).

[29 F.R. 10897, July 30, 1964]

§ 1101.44 Transfers.

Skim milk and butterfat in the form of a fluid milk product shall be classified:

(a) As Class I milk if transferred or diverted by a handler from a pool plant to a pool plant of another handler in the form of fluid milk products unless the operators of both plants claim utilization thereof in Class II milk in their reports submitted pursuant to § 1101.30: *Provided*, That the classification of such transfer is subject to the following:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1101.46(a) (9) and the corresponding step in § 1101.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 11.01.46(a) (5) and the corresponding step in § 1101.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1101.46(a) (8) or (9) and the corresponding step of § 1101.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred in bulk in the form of milk, filled milk, skim milk or cream or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1101.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be

first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, and thereafter pro rata to receipts from other order plants;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, and then pro rata to receipts from pool plants and other order plants not regulated by such order; and

(iii) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk not to exceed the equivalent amount of skim milk and butterfat, respectively, actually utilized as Class II milk in the nonpool plant: *Provided*, That if the transferee nonpool plant disposes of fluid cream to another nonpool plant such cream shall be classified as Class II milk if the requirements of subparagraphs (1) and (2) are met and the availability of Class II use is determined pursuant to this subdivision as applied to the second transferee plant;

(d) As follows, if transferred to an other order plant, or if diverted to a plant specified in subparagraph (2) of this paragraph, in either case in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk to any other order plant, or diverted to an other order plant fully subject to the provisions of Part 1090 regulating the handling of milk in the Chattanooga, Tennessee, marketing area, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, skim milk and butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and skim milk and butterfat allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1101.41.

[29 FR 10897, July 30, 1964, as amended at 34 FR 18703, Nov. 22, 1969]

§ 1101.45 Computation of skim milk and butterfat in each class.

For each month, the market administrator shall correct for mathematical and other obvious errors the monthly report submitted for the pool plant(s) of each handler pursuant to § 1101.30 and compute the total pounds of skim milk and butterfat, respectively, in Class I milk and Class II milk for such handler.

§ 1101.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1101.45, the market administrator shall determine the classification of producer milk at all pool plants for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1101.41(b)(4);

(2) Subtract from the total pounds of skim milk in Class I milk the pounds of skim milk in receipts of packaged fluid milk products, except filled milk made from reconstituted skim milk, from an unregulated supply plant or the pounds of skim milk classified as Class I milk and transferred during the month to such nonpool plant, whichever is less;

(3) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants, except that to be subtracted pursuant to subparagraph (5)(v) of this paragraph, as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts, and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class I, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(5) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established, and receipts of fluid milk products from unidentified sources;

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(iv) Receipts of reconstituted skim milk in filled milk from unregulated supply plants; and

(v) Receipts of reconstituted skim milk in filled milk from other order plants which are regulated under an order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;

(6) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant, excluding a quantity equal to the pounds of skim milk subtracted pursuant to subparagraphs (2) and (5)(iv) of this paragraph:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants that were not subtracted pursuant to subparagraph (5)(v) of this paragraph; and

(ii) Receipts of fluid milk products in bulk from another order plant that were not subtracted pursuant to subparagraph (5)(iv) of this paragraph, in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(7) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants, excluding a quantity equal to the pounds of skim milk subtracted pursuant to subparagraphs (2), (5)(iv), and (6)(i) of this paragraph;

(9) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraphs (5)(v) and (6)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1101.22(k) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(10) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers

according to the classification assigned pursuant to § 1101.44(a); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

[29 FR 10898, July 30, 1964, as amended at 34 FR 18703, Nov. 22, 1969]

MINIMUM PRICES

§ 1101.50 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

[37 F.R. 2939, Feb. 10, 1972]

§ 1101.51 Class prices.

Subject to the provisions of §§ 1101.52 and 1101.53, each handler shall pay producers, at the time and in the manner set forth in §§ 1101.80 through 1101.86, not less than the prices per hundredweight computed as follows for the respective quantities of Class I milk and Class II milk computed pursuant to § 1101.46:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.70.

(b) *Class II milk price.* The Class II milk price shall be the basic formula price for the month.

[32 F.R. 11131, Aug. 1, 1967, as amended at 37 F.R. 2939, Feb. 10, 1972]

§ 1101.52 Butterfat differentials to handlers.

If the weighted average butterfat test of that portion of producer milk which is classified, respectively, in any class of utilization for a handler, pursuant to § 1101.46, is more or less than 3.5 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization, for each one-tenth of 1 percent that such weighted average butterfat test is above or below, respectively, 3.5 percent, a butterfat differential (computed to the nearest 10th of a cent), calculated for each class of utilization as follows:

(a) *Class I milk.* Multiply the average price per pound of butter for the month as described in § 1101.50 by 0.12.

(b) *Class II milk.* Multiply the average price per pound of butter for the month as described in § 1101.50 by 0.115.

[19 F.R. 7711, Nov. 30, 1954, as amended at 32 F.R. 3339, Feb. 28, 1967; 32 F.R. 11132, Aug. 1, 1967]

§ 1101.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located 50 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the City Hall in Knoxville, Tennessee, and classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, or for other source milk for which a location adjustment is applicable pursuant to § 1101.70, the price computed pursuant to § 1101.51(a) shall be reduced by 15 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee plant, which is in excess of the sum of receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

[29 F.R. 10899, July 30, 1964]

§ 1101.54 Use of equivalent price.

If, for any reason, a price quotation required by this part for computing class prices or for any other purpose is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

[23 F.R. 1251, Feb. 28, 1958]

DETERMINATION OF UNIFORM PRICES TO PRODUCERS

§ 1101.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler defined pursuant to § 1101.11 (a) and (c) during the month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1101.46(c), by the applicable class prices (adjusted pursuant to §§ 1101.52 and 1101.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1101.46(a)(11) and the corresponding step of § 1101.46(b), by the applicable class prices;

(c) Add or subtract, as the case may be, an amount necessary to adjust for errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1101.46(a)(5) and the corresponding step of § 1101.46(b), except for receipts of fluid milk products assigned to Class I pursuant to § 1101.46(a)(5)(iv) and (v) and the corresponding step of § 1101.46(b) the Class I price shall be adjusted to the location of the transferor plant; and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest unregulated supply plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1101.46(a)(8) and the corresponding step of § 1101.46(b).

[29 F.R. 10899, July 30, 1964, as amended at 34 F.R. 18704, Nov. 22, 1969]

§ 1101.71 Computation of weighted average and uniform prices.

For each month the market administrator shall compute the weighted average price and the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1101.70 for all handlers who filed the reports prescribed by § 1101.30 for the month and who are not in default of payments pursuant to §§ 1101.80 and 1101.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1101.85(b);

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1101.85(a) and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included in paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1101.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the

"weighted average price" and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat content received from producers.

[29 F.R. 10899, July 30, 1964, as amended at 33 F.R. 18228, Dec. 7, 1968]

PAYMENTS

§ 1101.80 Time and method of payment for producer milk.

(a) On or before the last day of each month each handler shall make payment to each producer for milk received from him during the first 15 days of such month at not less than the Class II price per hundredweight for the preceding month: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if so requested, pay such cooperative association on or before the 2d day before the end of each month an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(b) On or before the 15th day after the end of each month each handler shall make payments to each producer for milk which was received from him during the month at not less than the uniform price computed pursuant to § 1101.71, subject to the following adjustment: (1) The butterfat differential pursuant to § 1101.85(a), (2) less location differentials pursuant to § 1101.85(b), (3) less payment made pursuant to paragraph (a) of this section, (4) less marketing service deductions pursuant to § 1101.88, (5) less proper deductions authorized in writing by the producer, and (6) adjusted for any error in calculating payment to such individual producer for past months: *Provided*, That if such handler has not received full payment for such month pursuant to § 1101.83 he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator: *Provided further*, That the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator: *And provided further*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall if so requested pay such cooperative association, on or before the 13th day after the end of each month an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

[19 FR 7711, Nov. 30, 1954, as amended at 33 FR 18228, Dec. 7, 1968]

§ 1101.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1101.82, 1101.84, 1101.91, and 1101.92, and out of which he shall make all payments pursuant to §§ 1101.83 and 1101.84: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

[34 FR 18704, Nov. 22, 1969]

§ 1101.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of each month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The sum of the net pool obligation computed pursuant to § 1101.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices computed pursuant to §§ 1101.71 adjusted by the producer butterfat and location differentials pursuant to §1101.85; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1101.70(e).

[29 F.R. 10899, July 30, 1964, as amended at 33 F.R. 18228, Dec. 7, 1968]

§ 1101.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1101.82(b) exceeds the amount computed pursuant to § 1101.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the appropriate funds are available.

[29 F.R. 10899, July 30, 1964]

§ 1101.84 Adjustment of errors in payment.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1101.82, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 1101.83, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1101.80, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 1101.85 Butterfat and location differentials to producers.

(a) *Butterfat differential to producers.* The applicable uniform price shall be increased or decreased for each one-tenth percent which the average butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to each class pursuant to § 1101.46 by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resultant figure to the nearest one-fifth cent.

(b) *Location differential to producers and on nonpool milk.* (1) The applicable uniform price computed pursuant to § 1101.71 to be paid for producer milk received at a pool plant shall be reduced according to the location of the pool plant where such milk was received at the rates set forth in § 1101.53; and

(2) For purposes of computations pursuant to §§ 1101.82 and 1101.83 the weighted average price shall be reduced at the rates set forth in § 1101.53 applicable at the location of the nonpool plant from which the milk was received.

[19 F.R. 7711, Nov. 30, 1954, as amended at 29 F.R. 10900, July 30, 1964; 32 F.R. 3339, Feb. 28, 1967; 33 F.R. 18228, Dec. 7, 1968]

§ 1101.86 Statement to producers.

In making payments required by § 1101.80 each handler shall furnish each producer or cooperative association with a supporting statement in such form that it may be retained by the producer or cooperative association which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and the average butterfat content of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1101.80 and 1101.85;

(d) The rate which is used in making the payment if such rate is more than the applicable minimum;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler including any deduction made pursuant to § 1101.88, together with a description of the respective deductions; and

(f) The net amount of payment to the producer or cooperative association.

[19 F.R. 7711, Nov. 30, 1954, as amended at 33 F.R. 18228, Dec. 7, 1968]

§ 1101.87 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hun-

dredweight or such lesser amount as the Secretary may prescribe, with respect to skim milk and butterfat contained in (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1101.46 (a) (5) and (8) and the corresponding steps of § 1101.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

[29 F.R. 10900, July 30, 1964]

§ 1101.88 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1101.80(b), shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and; on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

APPLICATION OF PROVISIONS

§ 1101.90 Producer-handlers.

Sections 1101.40 through 1101.46, 1101.50 through 1101.53, 1101.60 through 1101.62, 1101.70 through 1101.71, 1101.80 through 1101.88 shall not apply to a producer-handler.

§ 1101.91 Plants subject to other Federal orders.

A plant specified in paragraph (a) or (b) of this section shall be considered as a nonpool plant except that the operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require (in lieu of the reports required pursuant to §§ 1101.30 and 1101.31) and allow verification of such reports by the market administrator:

(a) Any pool plant qualified pursuant to § 1101.9(a) which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the Secretary determines that more Class I milk, except filled milk, is disposed of from such plant on routes to retail or wholesale outlets in the Knoxville, Tennessee, marketing area than is so disposed of in the marketing area regulated pursuant to such other order.

(b) Any pool plant qualified pursuant to § 1101.9(b) which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualified as a pool plant pursuant to the provisions of § 1101.9(b) during the preceding August through February period.

(c) Each handler operating a plant described in paragraph (a) of this section, if such plant is subject to the classification and pricing provisions of another order which provides for individual-handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area; and

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price applicable at the nonpool plant and subtract its value at the Class II price.

[19 F.R. 7711, Nov. 30, 1954, as amended at 34 F.R. 18704, Nov. 22, 1969]

§ 1101.92 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1101.30(b) and 1101.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1101.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk, except that reconstituted skim milk in filled milk shall be valued at the Class II price. There shall be included in the obligation so computed a charge in the amount specified in § 1101.70(e) and a credit in the amount specified in § 1101.82(b)(2) with respect to receipts from an unregulated supply plant, except that the credit for receipts of reconstituted skim milk in filled milk shall be at the Class II price, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1101.30(b) and 1101.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1101.9(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Deduct the quantity of reconstituted skim milk in fluid milk products disposed of on routes in the marketing area;

(4) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(5) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less

than the Class II price), and add for the quantity of reconstituted skim milk specified in subparagraph (3) of this paragraph its value computed at the location of the nonpool plant less the value of such skim milk at the Class II price.

[29 F.R. 10900, July 30, 1964, as amended at 34 F.R. 18705, Nov. 22, 1969]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-SO-31; Amdt. 39-2178]

PART 39—AIRWORTHINESS DIRECTIVES

Teledyne Continental Motors TSIO-470, TSIO-520, and GTSIO-520 Series Engines

There have been failures of the turbocharger oil inlet adapter on TSIO-520 and GTSIO-520 series engines that resulted in loss of engine oil and created a fire hazard in the vicinity of the turbocharger and engine exhaust system. Since this condition is likely to exist or develop in other engines of the same or similar type designs, an airworthiness directive is being issued to require inspection and eventual replacement of the aluminum oil inlet adapter, Teledyne Continental P/N 628675 or the Cessna equivalent P/N 5655204-1. Replacement will be with a steel adapter TCM P/N 640793 or Cessna equivalent P/N 5655204-2 on Teledyne Continental Models TSIO-470-B, -C, -D; TSIO-520-B, -D, -E, -J and -K; and GTSIO-520-C, -D, -H, -F engines.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, 31 F.R. 13697, § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

TELEDYNE CONTINENTAL MOTORS

Applies to the following Teledyne Continental Motors Model engines manufactured *prior* to August 10, 1973, installed on, but not necessarily limited to, Cessna T-310, 320, 340, 401, 402, 411, 414 and 421 series, Rockwell International Model Aero Commander 685 and Beech V35-TC, V35A-TC and V35B-TC series airplanes:

Engine model	New engine serial number	Remanufactured engine serial number
TSIO-470-B	Applies to all serial numbers	100080 and below.
TSIO-470-C	do	108534 and below.
TSIO-470-D	do	138544 and below.
TSIO-520-B	500018 and below	176191 and below.[1]
TSIO-520-D	500001 and below	180019 and below.[1]
TSIO-520-E	502125 and below	182395 and below.
GTSIO-520-C	602001 and below	155370 and below.
GTSIO-520-D	601005 and below	219161 and below.
GTSIO-520-H	600137 and below[1]	218046 and below.
GTSIO-520-F	603028 and below	224203 and below.

Model	Model airplane on which installed	Airplane serial numbers
TSIO-520-J	Cessna 414	00489 and below.
TSIO-520-K	Cessna 340	00318 and below.

[1] The following individual engines are not affected by this AD: TSIO-520-H, serial numbers 176170, 176185, 176186, 176187; TSIO-520-D, serial number 180028; GTSIO-520-H, serial number 600119.

Compliance required within the next 25 hours' time in service after the effective date of this AD, unless already accomplished.

(1) To detect cracked turbocharger oil inlet adapters inspect the turbocharger oil inlet adapter located at the turbocharger center housing for cracks and/or oil seepage. If there is evidence of oil leakage or cracks, the adapter must be replaced with steel adapter TCM P/N 640793 or Cessna P/N 5655204-2. When replacing the aluminum adapter with the steel adapter on the following model airplanes, the oil fitting which mates with the turbocharger oil inlet adapter must be replaced, unless already accomplished, with the appropriate steel fitting listed below.

Make	Model	Applicable airplane, serial numbers	Replacement steel fitting
Beech	V35-TC	All	AN 816-6
	V35A-TC		AN 816-6
	V35B-TC		AN 816-6
Cessna	320-D, 320-E	All	MS20823-6
	320-F	320F0001 through 320F0034	MS20823-6
	401 and 402	0001 through 0155	MS20823-6

(2) If there is no evidence of cracks or oil seepage, inspect at intervals not to exceed 25 hours' time in service from the last inspection until replaced with turbocharger oil inlet adapter TCM P/N 640793 or Cessna P/N 5655204-2.

Replacement of the aluminum adapter TCM P/N 628675 or Cessna P/N 5655204-1 with steel adapter P/N 640793 or Cessna P/N 5655204-2 or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region, is required within one year from the effective date of this AD.

This amendment becomes effective April 24, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

P. M. SWATEK,
Director,
Southern Region, ASO-1.

Issued in East Point, Georgia on April 10, 1975.

[FR Doc.75-10102 Filed 4-18-75;8:45 am]

[Docket No. 75-GL-9; Amdt. 39-2180]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman American Models AA-1, AA-1A, and AA-1B

There has been a failure of the mixture control wire on the Grumman American Model AA-1B airplane that has allowed the mixture control to move to idle cutoff. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to establish a life limit for the mixture control wire, and require periodic inspection of the mixture control wire on the Grumman American Models AA-1, AA-1A, and AA-1B airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

GRUMMAN AMERICAN. Applies to all Model AA-1, AA-1A, and AA-1B airplanes certificated in all categories.

Compliance: Required as indicated, unless previously accomplished. The aircraft may be flown to a facility where the inspection and/or replacement can be performed after expiration of the 50 hours time in service after the effective date of this AD.

To prevent mixture control wire failures accomplish the following within the next 50 hours time in service after the effective date of this AD, and thereafter as indicated, in accordance with Grumman American Service Bulletin No. 144A or later FAA approved revision or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, Great Lakes Region.

A. Replace mixture control wires having 500 or more hours time in service in accordance with the referenced service bulletin.

B. Repeat A at intervals not to exceed 500 hours in service.

C. Inspect the mixture control in accordance with the referenced service bulletin and replace the mixture control wire if kinked or misrigged.

D. Repeat C at intervals not to exceed 100 hours time in service.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Grumman American Aviation Corporation, 318 Bishop Road, Cleveland, Ohio 44143. These documents may also be examined at Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018 and at FAA Headquarters, 800 Independence Avenue, SW, Washington D.C. A historical file on this AD which includes the

incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at Great Lakes Region.

This amendment becomes effective April 25, 1975.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Des Plaines, Illinois, on April 11, 1975.

JOHN M. CYROCKI,
Director, Great Lakes Region.

NOTE: The incorporation by referenced provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.75-10274 Filed 4-18-75;8:45 am]

[Airspace Docket No. 75-GL-7]

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

Alteration of Federal Airway

On March 3, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 F.R. 8830) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a west alternate to V-177 between Wausau, Wis., and Duluth, Minn.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 19, 1975, as hereinafter set forth.

Section 71.123 (40 FR 307) is amended as follows:

In V-177 "Wausau, WI., 32 miles, 99 miles, 50 MSL, Duluth, MN.; Ely, MN." is deleted and "Wausau, Wis.; Duluth, Minn., including a west alternate via Hayward, Wis.; to Ely, Minn." is substituted therefor.

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

Issued in Washington, D.C. on April 14, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 75-10276 Filed 4-18-75; 8:45 am]

[Airspace Docket No. 75-AL-1]

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

Designation and Recision of Airways and Reporting Points

On March 5, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 10194) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate and rescind airways and reporting points in Alaska.

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

Subsequent to publication of the NPRM, the name of the Bettles, Alaska, NDB has been changed to Evansville, Alaska, NDB. This name change is reflected herein.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0902 G.m.t., October 9, 1975, as hereinafter set forth.

1. Section 71.105 (40 FR 305) is amended as follows:

a. A-3 is amended to read as follows: "A-3 From Evansville, Alaska, NDB, to Put River, Alaska, NDB."

b. A-4 is added to read as follows: "A-4 From Evansville, Alaska, NDB via Umiat, Alaska, NDB to Put River, Alaska, NDB."

c. A-6 is added to read as follows: "A-6 From Chandalar Lake, Alaska, NDB via Umiat, Alaska, NDB to Browerville, Alaska, NDB."

d. In A-15 "Chandalar Lake, Alaska, RBN; 30 miles 12 AGL, 60 miles 95 MSL, Put River, Alaska, RBN;" is deleted and "Chandalar Lake, Alaska, NDB; Put River, Alaska, NDB;" is substituted therefor.

2. § 71.211 (40 F.R. 634) is amended as follows:

a. "Naknek River, Alaska, RBN" is deleted.

b. "Cold Bay LOM" is added.

c. "King Salmon LOM" is added.

d. "Umiat NDB" is added.

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

Issued in Washington, D.C., on April 14, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-10277 Filed 4-18-75;8:45 am]

[Airspace Docket No. 75-WA-1]

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

Redesignation of Federal Airways

On March 3, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 8830) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would extend V-77 from Waterloo, Iowa, to Waukon, Iowa, and also extend V-138 from Fort Dodge, Iowa, to Waukon via Mason City, Iowa.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 19, 1975, as hereinafter set forth.

§ 71.123 (40 F.R. 307) is amended as follows:

In V-77 all after "Newton, Iowa;" is deleted and "Waterloo, Iowa; to Waukon, Iowa." is substituted therefor.

In V-138 "Fort Dodge, Iowa." is deleted and "Fort Dodge, Iowa; Mason City, Iowa; to Waukon, Iowa" is substituted therefor.

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

Issued in Washington, D.C., on April 14, 1975.

Issued in Washington, D.C., on April 14, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-10275 Filed 4-18-75;8:45 am]

[Airspace Docket No. 75-WA-7]

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

PART 73—SPECIAL USE AIRSPACE

Temporary Alteration of Federal Airway and Designation of Temporary Restricted Areas

On February 10, 1975, a Rule (Airspace Docket No. 74-SO-99) was published in the FEDERAL REGISTER (40 FR 6203) amending Part 73 of the Federal Aviation Regulations to designate five temporary restricted areas, R-5315A, B, C, D and E, in the vicinity of Onslow Beach, Camp LeJeune, N.C., for a joint military training exercise, Agate Punch, scheduled from 0800 G.m.t., April 15, 1975, to 2300 G.m.t., April 27, 1975. The rule also amended Part 71 of the Federal Aviation Regulations to include R-5315A and C in the continental control area for the duration of the exercise and to reduce the width on a defined portion of the east side of VOR Federal Airway, V-139, to three nautical miles for the same time period.

Subsequent to publication of the rule, it was determined that additional time is required to support a Joint Chiefs of Staff directed close air support validation study within the temporary restricted areas. Due to this urgent military requirement in the direct interest of national defense, the Navy has requested that the amendments be extended to 2359 G.m.t., April 29, 1975.

Since the Department of the Navy has stated that the two day extension is of urgent military necessity, the Administrator has determined that it is impracticable to comply with the notice, public procedure, and effective date requirements of Pub. L. 89-554 (5 U.S.C. 553); therefore, these amendments may become effective in less than thirty days.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective immediately, as hereinafter set forth.

1. Section 71.123 (40 FR 307, 6203) is amended as follows: In V–139 "* * * From Wilmington, N.C., New Bern, N.C.; * * *" is deleted and "* * * From Wilmington, N.C., 7 miles wide from 13 miles NE of Wilmington to 44 miles NE of Wilmington (4 miles W and 3 miles E) New Bern, N.C., * * *" is substituted therefor for the duration of Exercise AGATE PUNCH from 0800 G.m.t., April 15, to 2359 G.m.t., April 29, 1975.

2. In § 71.151 (40 FR 343, 6203) the following temporary restricted areas are included for the duration of their time designation from 0800 G.m.t., April 15, to 2359 G.m.t., April 29, 1975.

a. R–5315A Exercise Agate Punch

b. R–5315C Exercise Agate Punch

3. In § 73.53 (40 FR 687, 6203):

a. The time of designation for R–5315A Exercise Agate Punch is amended to read as follows:

Time of Designation. Continuous, 0800 G.m.t., April 15 to 2359 G.m.t., April 29, 1975.

b. The time of designation for R–5315B Exercise Agate Punch is amended to read as follows:

Time of Designation. Continuous, 0800 G.m.t., April 15 to 2359 G.m.t., April 29, 1975.

c. The time of designation for R–5315C Exercise Agate Punch, is amended to read as follows:

Time of Designation. Continuous, 0800 G.m.t., April 15, to 2359 G.m.t., April 29, 1975.

d. The time of designation for R–5315D Exercise Agate Punch is amended to read as follows:

Time of Designation. Continuous, 0800 G.m.t., April 15 to 2359 G.m.t., April 29, 1975.

e. The time of designation for R–5315E Exercise Agate Punch is amended to read as follows:

Time of Designation. Continuous, 0800 G.m.t., April 15 to 2359 G.m.t., April 29, 1975.

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

Issued in Washington, D.C., on April 15, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-10278 Filed 4-18-75;8:45 am]

[Airspace Docket No. 75-GL-5]

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Area

On February 18, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 6979) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a joint-use restricted area three miles across Lake Michigan from Manitowac, Wisc., to Ludington, Mich., and from Ludington to Milwaukee, Wis., to enable the University of Wisconsin to conduct a meteorological study of the lower atmosphere across Lake Michigan.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. One objection was received and other comments either favorable or contained suggestions for additional safety precautions. The objection was registered by the Commanding Officer, United States Coast Guard Air Station at Traverse City, Mich., on the basis that aircraft operate frequently in the area on marine environmental protection patrols and search and rescue missions and the restricted area is considered to be operationally dangerous. A comment from the Commanding Officer, United States Coast Guard Air Station, Chicago, Ill., stated that the proposed restricted area would considerably hinder any search and rescue effort that might be required within the proposed areas during active periods. Consequently, he suggested that a requirement be placed on the using agency to notify the Coast Guard prior to commencing each period of operation and the name of and a radio frequency for contacting the ferry boat should be provided at the time of notification.

The FAA believes that the Coast Guard Patrol requirements are such that they can be accommodated when the restricted area is inactive or by diverting around the area in use. The operational hazard presented by the balloon and its tether line is recognized and that is the purpose for restricting the flight of aircraft within the designated airspace required to contain the balloon activities.

The comment concerning hindrance to any search and rescue effort that might be required within the proposed area is valid. The using agency has advised that a communication channel to the Coast Guard will be available from the ferry boat during its operation. Moreover, arrangements to accommodate Coast Guard emergency search and rescue missions will be worked out and included in the joint use user/controlling agency letter of procedure.

The State of Wisconsin, Division of Aeronautics, commented on the importance of the NOTAM activating R–6905A and R–6905B being given wide dissemination to the airports along both shores of Lake Michigan. The NOTAM that activities the restricted areas will be published at least 12 hours in advance and will be given wide dissemination in accordance with NOTAM distribution requirements. They also suggested that the balloon and possibly the tether line be illuminated in some manner for night operations and that the balloon be colored alternating aviation surface orange and white to assist in its identification during the hours of daylight in VFR conditions. Additionally, they suggested that the balloon be equipped with a transponder as a back up safety tracking device should the tether line break and the rapid deflation device fail.

While these suggestions would provide additional safety precautions they would require provisions by the using agency that are not currently contained in Federal Aviation Regulations, Part 101 Subpart B, governing the operation of moored balloons within restricted areas. Restricting the flight of aircraft in the designated airspace containing the balloon activities, provides an element of safety that should compensate for the lack of balloon lights and coloring.

The balloon will use a radio controlled rapid deflation device in the event the tether line severs. This device uses a digital pulse coded remote control system to burn a hole through the balloon material. This system has been used during previous experiments and is considered quite effective. The use of a digital encoded command insures that no stray radio signal could accidently deflate the balloon. Nevertheless, if the device does not function properly, the operator is required to immediately notify the nearest ATC facility of the location and time of the escape and the estimated flight path of the balloon. The FAA believes these safeguards are reasonable and adequate.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 19, 1975, as hereinafter set forth.

Section 73.69 (40 FR 701) is amended by adding the following:

1. *R–6905A Lake Michigan.*

Boundaries. Within 1½ NM on each side of a direct line between coordinates latitude 44°05′ N., longitude 87°38′ W.; and latitude 43°57′ N., longitude 86°28′ W., excluding the area within 5 NM of the shoreline.

Designated altitudes. Surface to 6,000 MSL.

Time of designation. As activated by NOTAM, 12 hours in advance.

Controlling agency. Federal Aviation Administration, Chicago ARTC Center.

Using agency. University of Wisconsin.

2. *R–6905B Lake Michigan.*

Boundaries. Within 1½ NM on each side of a direct line between coordinates latitude 43°67′ N., longitude 86°28′ W., and latitude 43°02′ N., longitude 87°52′ W., excluding the area within 5 NM of the shoreline at Ludington, and the area southwest of the southern boundary of R6903.

Designated altitudes. Surface to 6,000 MSL.

Time of designation. As activated by NOTAM, 12 hours in advance.

Controlling agency. Federal Aviation Administration, Chicago ARTC Center.

Using agency. University of Wisconsin.

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

Issued in Washington, D.C., on April 14, 1975.

F. L. CUNNINGHAM,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-10279 Filed 4-18-75;8:45 am]

[Docket No. 13057; Admt. No. 121-118]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Carriage of Weapons and Escorted Persons

The purpose of these amendments to Part 121 of the Federal Aviation Regulations is to provide rules for the carriage of deadly or dangerous weapons and persons in the custody of law enforcement personnel aboard aircraft operated by Part 121 certificate holders. These amendments also apply to air travel clubs certificated under Part 123 and to air taxi operators certificated under Part 135, when conducting operations governed by those parts with large airplanes.

These amendments are based on a Notice of Proposed Rule Making (Notice No. 73-21) published in the FEDERAL REGISTER on July 27, 1973 (38 FR 20098). Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all comments received in response to that Notice. Except as discussed hereinafter, these amendments and the reasons therefor are the same as those contained in Notice 73-21.

After the issue of Notice 73-21, Congress enacted Pub. L. 93-366, which, among other things, amended section 902 (i) of the Federal Aviation Act of 1958 adding a prohibition against a person not excepted by that section having on or about his property (as well as his person) a concealed deadly or dangerous weapon accessible to him in flight. To conform the amendments to Part 121 proposed in Notice 73-21 to the language in Pub. L. 93-366, the phrase "carry-on baggage" has been replaced with the word "property", and prohibited weapons have been described as those "accessible to the passenger while aboard the aircraft."

Fourteen of the public comments received in response to Notice 73-21 agreed with the proposals as set forth in the Notice and sixty-five of the commentators agreed with the proposal in general but recommended certain changes.

In response to certain comments, it should be pointed out that the safety regulations adopted herein are intended to provide for safety in air commerce and do not compel the carriage of any person. They do, however, specify the safety requirements which must be met when a certificate holder carries armed law enforcement officers or persons in the custody of those officers.

Several commentators made recommendations with respect to the identity of the escorted person and his classification by the governmental entity having custody of him. The recommendation was made that the term "dangerous person" should be defined, since a law enforcement agency might classify an escorted person as not considered dangerous in order to avoid the additional costs that would be incurred by § 121.584 (a)(3), which requires at least two escorts for any escorted person considered dangerous. Since the FAA believes that determinations regarding the management of a person in the custody of law enforcement personnel can best be made by persons trained in law enforcement, and that problems such as classification of prisoners can best be handled by trained personnel, it is adopting § 121.584 (a)(3) as proposed.

The substance of proposed § 121.584(b) has been transferred to § 121.584(a)(2) of this amendment, since upon further consideration it is believed appropriate that the escort should have the responsibility for assuring the certificate holder that he is equipped with adequate restraining devices to be used in the event the escorted person becomes unruly.

Another recommendation that was made regarding restraint of the person in custody, namely that he be handcuffed securely not only while on the aircraft but also while in the airport terminal, has not been included in the regulations adopted herein. The recommendation that the escorted person be handcuffed while in the airport is considered to be beyond the scope of Notice 73-21 and the FAA is unable to agree with the recommendation that the escorted person be handcuffed in all cases while aboard the aircraft. Since the purpose of handcuffs is to restrain the person in custody, the FAA believes that, unless the law enforcement escort determines that restraint is necessary, in the event of an emergency evacuation the interests of safety are better served if that individual is not physically restrained. Moreover, the FAA believes that the decision whether the person being escorted should be physically restrained should be left to the law enforcement escort.

Comments received expressed concern that as proposed § 121.585(a) would make the certificate holder a violator even when the certificate holder did not know that a person had boarded the aircraft with a weapon contrary to the regulations. Section 121.585(a), as adopted, provides that no certificate holder may permit any person to have, on or about his person or property accessible to him inflight, a deadly or dangerous weapon while aboard the certificate holder's aircraft unless the conditions set out in that paragraph are met. Therefore, it will be a violation of new § 121.585(a) if the certificate holder gives permission for a person to board the aircraft with a weapon without the conditions in that paragraph being met. If a person carrying a weapon aboard the aircraft did not have the certificate holder's permission to board the aircraft with the weapon, the certificate holder would not be in violation of § 121.585(a). However, it should be noted that an air carrier is required under § 121.538 to have in use a passenger screening system approved by the Administrator that is designed to prevent or deter the carriage aboard its aircraft of any weapon in carry-on baggage or on or about the person of passengers.

Comments also pointed out that the wording of proposed § 121.585 (a)(1)(i) and (a)(2)(ii) would omit county sheriffs and their deputies who are not law enforcement officials or employees of a municipality or of a State. It was not the intent of the FAA to exclude those employees and officials and, accordingly, the wording of § 121.585(a) has been changed to include officials and employees of a political subdivision of a State, as well as those of a municipality or of a State.

Comments objected to the wording of proposed § 121.585 (a)(1)(i) and (a)(2)(ii) on the grounds that the words "official duty while aboard the certificate holder's aircraft" may be read as limiting the permission to carry a weapon aboard an aircraft to only those persons having an official function to perform while aboard the aircraft, such as escorting a prisoner. The wording of those provisions, as adopted in new § 121.585 (a)(2)(ii), has been changed to make cellar an intent to require only that the armed person have a need for the weapon in connection with the performance of his duty during the period from the time he would have checked it in accordance with new § 121.585(b) until the time it would have been returned to him after deplaning.

In addition, comments objected to proposed § 121.585(a)(2)(ii) because it would require officials and employees of States, political subdivisions of States, and of municipalities to show to the satisfaction of the certificate holder that their carriage of a weapon is authorized and necessary. After further consideration, the FAA has concluded that the determination as to whether the official or employees needs to have the weapon accessible to him should be made by the governmental agency that has authorized him to carry the weapon. Accordingly, the requirement that this need be shown to the certificate holder's satisfaction has not been adopted. However, new § 121.585(a)(3), as adopted, does provide for notice to be given to the certificate holder of this need so that the certificate holder can be assured that the requirement of § 121.585(a)(2)(ii) is being complied with.

The requirements of new § 121.585(a)(2) and (3), as adopted, apply to persons described in new § 121.585 (a)(1)(ii) as well as (a)(1)(i), namely persons who are authorized to have the weapon aboard the aircraft by the certificate holder and the Administrator. This has been done in lieu of making these requirements conditions of authorizations issued to those persons by the Administrator.

Some commentators expressed concern that the proposed § 121.585(a)(1)(ii) would not permit continued use of armed courier services for security when carrying cargo of great value. The FAA wishes to point out that these amendments are not intended to curtail armed courier services. Section 121.585(a)(1)(ii), as adopted, has been changed to require only that the course of training that must have been completed by the

armed person be acceptable to the Administrator. Thus, the rule, as adopted, does not require FAA approval of the training course before that person's participation in it, but allows for a determination of acceptability at the time when authorization is given by the Administrator for that person to carry a weapon aboard the aircraft.

There were several objections to the proposal in § 121.585(a)(3) to require that the means of identification of the armed person include, in addition to his full-face picture and signature, the signature of his supervisor. Many law enforcement agencies pointed out that their identification credentials do not contain the signature of anyone but the person identified by the credential. Further review of this matter indicates that many U.S. Government law enforcement agencies also issue identification credentials that bear an official seal but not the signature of a supervisor. Accordingly, as adopted, § 121.585(a)(3) requires that the armed person's identification credentials carry either the signature of an authorizing official of the law enforcement agency he represents or the official seal of his agency.

Two commentators objected to the proposal in § 121.585(b) to prohibit a certificate holder from permitting a person to carry a deadly or dangerous weapon in checked baggage unless the conditions set forth in the regulations were met. The basis for the objection was that since the prohibition would apply even if the certificate holder did not have knowledge of the existence of a weapon in checked baggage, it would necessitate a search by the certificate holder of every piece of checked baggage offered for air carriage. Comments also expressed concern over the fact that, as proposed, § 121.585(b) would not permit any person to carry a weapon in checked baggage without compliance with the applicable conditions. They contend that it would be an undue burden on the public to make them responsible for knowing that they must reveal to the certificate holder the presence of a weapon in checked baggage in order that compliance with the conditions set forth in § 121.585(b) could be ensured.

It was not the intent of the proposed regulation to require a search of every article of baggage checked for carriage. The wording of proposed § 121.585(b) has been changed in the amendment to make it clear that the passenger must notify the certificate holder of the presence of the weapon before checking the baggage. This notification requirement is consistent with the Congressional intent expressed in Pub. L. 93-366, which amended section 902(1) of the Act to provide for a declaration by the passenger to the air carrier of the presence of a weapon in baggage which is not accessible to passengers in flight. In addition, the word "knowingly" has been added to the lead-in sentence in § 121.585(b), as adopted, to make it clear that the certificate holder is not responsible for complying with the conditions of that paragraph unless he has knowledge that the baggage being checked contains a deadly or dangerous weapon.

Numerous commentators objected to the requirement in § 121.585(b)(1) requiring the certificate holder to ensure that a weapon carried in checked baggage is unloaded. They contend that it is more dangerous for the certificate holder to determine whether a gun is loaded, especially in the event that an employee of the certificate holder who is unfamiliar with the use of firearms must perform the check, than it is to carry a loaded gun in checked baggage. After further consideration, the FAA agrees, and the rule, as adopted, requires only that passenger notify the certificate holder that the weapon is unloaded.

Certain comments objected to the provision of proposed § 121.585(b)(3) that would permit checked baggage containing a weapon to be carried in the crew compartment. Upon further consideration of the proposal, the FAA believes that, to prevent the use of the weapon by a hijacker, such baggage should not be carried in the crew compartment, but should be carried in another area that is inaccessible to passengers. Section 121.585(b)(3) has been changed accordingly in this amendment.

Upon further consideration, a provision similar to proposed § 121.585(c) has been added as § 121.584(e) to prohibit a person escorting another person and a person being escorted from drinking any alcoholic beverage while aboard an aircraft operated under Part 121.

(Secs. 313(a), 601, 604, 902(1), Federal Aviation Act 1958 (49 U.S.C. 1354(a), 1421, 1424, and 1472(1)), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

In consideration of the foregoing, Part 121 of the Federal Aviation Regulations is amended, effective June 20, 1975, as follows:

1. By amending paragraph (c) of § 121.538 by striking out the word "and" at the end of subparagraph (2) and the period at the end of subparagraph (3), and by adding the phrase "; and" at the end of subparagraph (3) and a new subparagraph (4) to read as follows:

§ 121.538 Aircraft security.

* * * * *

(c) * * *

(4) Assure that only persons authorized under § 121.585(a) are permitted to have on or about their persons or property a deadly or dangerous weapon accessible to them while aboard any of its aircraft.

* * * * *

2. By revising paragraph (b) of § 121.575 to read as follows:

§ 121.575 Alcoholic beverages.

* * * * *

(b) No certificate holder may serve any alcoholic beverage to any person aboard any of its aircraft who—

(1) Appears to be intoxicated;

(2) Is escorting a person or being escorted in accordance with § 121.584; or

(3) Has a deadly or dangerous weapon accessible to him while aboard the aircraft in accordance with § 121.585(a).

* * * * *

3. By adding a new § 121.584 to Part 121 to read as follows:

§ 121.584 Carriage of person in the custody of law enforcement personnel.

(a) No certificate holder may carry a person in the custody of law enforcement personnel, unless the following conditions are met:

(1) The certificate holder has been notified at least one hour, or in an emergency as soon as practicable, before departure—

(i) Of the identity of the escorted person and the flight on which he will be carried; and

(ii) Whether the escorted person is considered dangerous by the governmental entity having custody of him.

(2) The escort has assured the certificate holder that—

(i) The escorted person does not have on or about his person or property any article that could be used as a deadly or dangerous weapon and would be accessible to him while aboard the aircraft; and

(ii) The escort is equipped with adequate restraining devices to be used in the event the escort determines that restraint is necessary.

(3) The escorted person is in the custody of at least two escorts, if the certificate holder has been notified that the escorted person is considered dangerous by the governmental entity having custody of him.

(b) The escorted person and his escort shall be—

(1) Boarded before all other enplaning passengers board, and deplaned after all other deplaning passengers have left, the aircraft; and

(2) Seated in the rearmost passenger seats that are neither located in any lounge area, nor located next to or directly across from any aircraft exit.

(c) At least one escort shall—

(1) Sit between the escorted person and any aisle; and

(2) At all times accompany the escorted person and keep him under surveillance.

(d) The certificate holder may not—

(1) Carry more than one person who it has been notified is considered dangerous, and his escorts, on an aircraft carrying other passengers; or

(2) Serve food or beverages, or provide metal eating utensils, to an escorted person unless authorized by the escort.

(e) No person escorting a person or being escorted in accordance with this section may drink any alcoholic beverage while aboard an aircraft being operated under this part.

4. By revising § 121.585 to read as follows:

§ 121.585 Carriage of weapons.

(a) No certificate holder may permit any person to have, nor may any person

have, on or about his person or property, a deadly or dangerous weapon, either concealed or unconcealed, accessible to him while aboard an aircraft being operated by the certificate holder, unless the following conditions are met:

(1) The person having the weapon is either—

(i) An official or employee of the United States, of a State or political subdivision of a State, or of a municipality; or

(ii) A person who is authorized to have the weapon by the certificate holder and the Administrator, and who has successfully completed a course of training in the use of arms acceptable to the Administrator.

(2) The person having the weapon—

(i) Is authorized to have the weapon; and

(ii) Needs to have the weapon accessible to him in connection with the performance of his duty during the period from the time he would otherwise have checked it in accordance with paragraph (b) of this section until the time it would have been returned to him after deplaning.

(3) The certificate holder has been notified—

(i) Of the flight on which the armed person intends to have the weapon accessible to him at least one hour, or in an emergency as soon as practicable, before departure; and

(ii) When the armed person is other than an employee or official of the United States, that he needs to have the weapon accessible to him in connection with the performance of his duty during the period from the time he would otherwise have checked it in accordance with paragraph (b) of this section until the time it would have been returned to him after deplaning.

(4) The armed person has identified himself to the certificate holder by presenting credentials that include his clear, full-face picture, his signature, and the signature of an authorizing official of his service or the official seal of his service. A badge, shield, or similar device may not be used as the sole means of identification.

(5) The certificate holder—

(i) Has ensured that the armed person is familiar with its procedures for the carriage of a deadly or dangerous weapon aboard its aircraft prior to the time such person boards the aircraft;

(ii) Has ensured that the identity of the armed person is known to each law enforcement officer and each employee of the certificate holder responsible for security during the boarding of the aircraft; and

(iii) Has notified the pilot in command and any other person authorized to have a weapon accessible to him aboard the aircraft of the location of each authorized armed person aboard the aircraft.

(b) No certificate holder may knowingly permit any passenger to carry, nor may any passenger carry, while aboard an aircraft being operated by that certificate holder, in checked baggage, a deadly or dangerous weapon, unless the following conditions are met:

(1) The passenger has notified the certificate holder before checking the baggage that the weapon is in the baggage and that it is unloaded.

(2) The baggage in which the weapon is carried is locked, and only the passenger checking the baggage retains a key.

(3) The baggage is carried in an area other than the flight crew compartment that is inaccessible to passengers.

(c) No person having a deadly or dangerous weapon accessible to him may drink any alcoholic beverage while aboard an aircraft operated under this part.

Issued in Washington, D.C., on April 12, 1975.

JAMES E. DOW,
Acting Administrator.

[FR Doc.75-10281 Filed 4-18-75;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM75-15; Order No. 524-B]

PART 1—RULES OF PRACTICE AND PROCEDURE

Requests for Public Information

APRIL 15, 1975.

On February 10, 1975, the Commission issued Order No. 524 which conforms the Commission's Rules to the basic requirements of Pub. L. No. 93-502, 88 Stat. 1561, amending 5 U.S.C. 552, known as the Freedom of Information Act. The Order was published in the FEDERAL REGISTER on February 19, 1975 (40 FR 7251).

Among other things, the Order added a new § 1.36(f) *Timetables and procedures in event of withholding of public records* which provides for appeal to the Chairman of the Commission of a denial of a request. Under the rules as they now stand, appeal is to be made by petition filed pursuant to § 1.7 of the Commission's rules (18 CFR 1.7). Section 1.7 requires a petition to be in writing and under oath, stating the petitioner's grounds of interest in the subject matter, the facts relied upon, the relief sought, the reference to appropriate statutory provision or other authority relied upon for relief, and other requirements as to title, number of copies, form, subscription, and verification. These formal requirements upon those requesting public documents are quite complex, and somewhat inconsistent with the spirit of the Freedom of Information Act Amendments which were enacted to provide for the complete and speedy release of information (H.R. Rep. No. 93-876, 93d Cong., 2d Sess. 2 (1974)). Accordingly, § 1.36(f)(1), Part 1 of the Code of Federal Regulations, will be revised to require that an appeal of any adverse determination be made in writing and addressed to the Chairman of the Commission.

The Commission finds: (1) The revision prescribed herein represents a procedural matter which does not require notice or hearing under 5 U.S.C. 553.

(2) Good cause exists that the revision adopted herein becomes effective upon issuance of this order.

(3) The revision of the Commission's rules prescribed herein is necessary and appropriate for the administration of the Federal Power Act and the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly section 309 (49 Stat. 858-859; 16 U.S.C. 825h) and the Natural Gas Act as amended, particularly section 16 (52 Stat. 830; 15 U.S.C. 717o), *orders:*

(A) Section 1.36(f)(1) in Part 1, Subchapter A of Chapter I, Title 18 of the Code of Federal Regulations is revised to read as follows:

(f) *Timetables and procedures in event of withholding of public records.* (1) The Director of Public Information will determine within ten days (except Saturdays, Sundays, and legal public holidays) after receipt of a request for public records whether to comply with such request and will immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal any adverse determination in writing to the Chairman.

(B) The revision adopted herein shall be effective upon issuance of this order.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10366 Filed 4-18-75;8:45 am]

[Docket No. RM74-16]

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Uniform Filing of Natural Gas Reserves Information; Postponement of Effective Date

APRIL 15, 1975.

On February 25, 1975, we issued Order No. 526,[1] which promulgated a new FPC Form No. 40 to provide the Commission with information on proved domestic natural gas reserves (40 FR 8940, March 4, 1975). Ordering Paragraph (D) of that order provided that, unless otherwise directed, the effective date of Order No. 526 would be April 28, 1975, and Ordering Paragraph (F) stated that the 30 day period within which to file applications for rehearing pursuant to section

[1] Order No. 526, Order Prescribing Procedures and Instituting Uniform Annual Filing of National Proved Domestic Natural Gas Reserves Information, Docket No. RM74-16, —— FPC —— (issued February 25, 1975).

19(a) of the Natural Gas Act[3] would begin with the April 28, 1975, effective date. Nevertheless, beginning on March 17, 1975, and thereafter, applications for rehearing have been received from several parties.[4] In order to avoid uncertainty, we will grant for purposes of further consideration those applications that have been filed together with all future applications filed on or before May 28, 1975, which is thirty days following the effective date of Order No. 526.

The Commission orders: The petitions for rehearing of Order No. 526 filed by the parties listed in Appendix A, and by all other parties on or before May 28, 1975, are granted for the sole purpose of further consideration of Order No. 526; and, consequently, the effective date of new § 260.13 shall be fixed by further order of the Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Amoco Production
Atlantic Richfield Company
Continental Oil Company
Exxon Corporation
General American Oil Company of Texas
Gulf Oil Corporation
Interstate Natural Gas Association of America
Marathon Oil Company
Mitchell Energy Corporation
Mobil Oil Corporation
Pennzoil Company
Pennzoil Louisiana and Texas Offshore, Inc.
Pennzoil Offshore Gas Operators, Inc.
Pennzoil Producing Company
Phillips Petroleum Company
Superior Oil Company
Tenneco Oil Company, Inc.
Texaco Inc.
Union Oil Company of California
Beaver Mesa Exploration Company
Getty Oil Company

[FR Doc.75-10348 Filed 4-18-75;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER E—PLANNING

PART 420—PROGRAM MANAGEMENT AND COORDINATION

Highway Planning and Research and Development—Contracts

The Federal Highway Administration is amending Chapter I, Title 23, Code of Federal Regulations, by issuing certain amendments to Subpart B—Highway Planning and Research and Development—Contracts of Part 420—Program Management and Coordination.

General notice of proposed rulemaking is not required inasmuch as the material published relates to benefits, grants, or contracts pursuant to 5 U.S.C. 553(a)(2).

These amendments will take effect on the date of issuance.

In 23 CFR Part 420, Subpart B, Highway Planning and Research and Development — Contracts, the following amendments are hereby promulgated:

(1) Section 420.203(a)(4) is revised to read:

(4) The SHA shall determine and document in its files that an audit evaluation has been made in accordance with 23 CFR Part 170 for any proposed contract exceeding $50,000.

(2) Section 420.205(a) is revised to read:

(a) For contracts with other than MPO's.

(3) Section 420.205(a)(7) (i) and (ii) are revised to read:

(i) After the contract is executed, additional subcontracting or additional specialized services must have the approval of the SHA. For contracts approved by the FHWA, the SHA must obtain FHWA concurrence in such changes.

(ii) All subcontracts shall be subject to the provisions contained in the contract between the SHA and the prime contractor.

(4) Section 420.205(a)(12)(i) is deleted.

(5) Section 420.205(a)(12)(ii) is redesignated as 420.205(a)(12).

(6) Section 420.205(a)(13)(ii). The following is inserted as a new second sentence: "Interim or final reports resulting from contracts with profitmaking organizations shall not be published until the report has been accepted by the FHWA and the SHA in accordance with paragraph (a)(7) of § 420.203."

(7) Section 420.205(b) is revised to read:

(b) For contracts with MPO's.

(8) Section 420.205(b)(1) is revised to read:

(1) Parties. The parties to the contract shall be identified.

(9) Section 420.205(b)(5) is amended to read:

(5) Subcontracting.

(i) After the contract is executed, additional subcontracting or additional specialized services, with the exception of subcontracts for incidental services such as printing or computer services, must have the approval of the SHA. For contracts approved by the FHWA, the SHA must obtain FHWA concurrence in such changes.

(ii) Subcontracts between an MPO and nonpublic organizations shall be subject to applicable provisions of 420.205(a). Subcontracts between an MPO and other public agencies shall be subject to the provisions contained in the contract between the SHA and the MPO.

(10) Section 420.206(a) is amended to read:

(a) This procedure is not applicable to contracts with MPO's.

Issued on April 11, 1975.

NORBERT T. TIEMANN, *Federal Highway Administrator.*

[FR Doc.75-10329 Filed 4-18-75;8:45 am]

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 630—PRECONSTRUCTION PROCEDURES

Advance Construction of Federal-Aid Projects; Correction

In FR Doc. 75-7056, appearing at page 12259 of the issue for Tuesday, March 18, 1975, make the following changes:

1. On page 12260 only subsection (a) of § 630.702 was revised. All other subsections remain the same. The last sentence of the preamble should be changed to read: "Sections 630.701 and 630.702 (a) are hereby revised to read as follows:"

2. On page 12260, § 630.702 is reprinted below.

§ 630.702 Requirements and conditions.

(a) The State must have obligated all funds for any of the Federal-aid systems, other than the Interstate System, apportioned to it under 23 U.S.C. 104 of the particular class of funds for which the project is proposed.

This revision will take effect immediately.

Dated: April 14, 1975.

DAVID E. WELLS, *Chief Counsel, Federal Highway Administration.*

[FR Doc.75-10330 Filed 4-18-75;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7353]

PART 10—TEMPORARY INCOME TAX REGULATIONS UNDER PUB. L. 93-625

Accrued Vacation Pay

The following regulations relate to section 463(d) of the Internal Revenue Code of 1954, as added by section 4 of Pub. L. 93-625, which permits a taxpayer to elect to deduct an amount accrued for vacation pay even though contingencies with respect to payment may exist.

The temporary regulations provide rules for making the election, including when the election may be made and the information required to be provided to the Service by the taxpayer.

Adoption of amendments to the regulations. In order to provide such temporary regulations under section 463(d) of the Internal Revenue Code of 1954, the following regulations are adopted:

Paragraph 1. Section 10.2 is added immediately before § 11.402(e)(4)(B)-1 and reads as follows:

§ 10.2 Election to accrue vacation pay.

(a) *In general.* Section 463 provides that taxpayers whose taxable income is computed under an accrual method of accounting may elect without the consent of the Commissioner, to deduct certain amounts with respect to vacation pay which, because of contingencies, would not otherwise be deductible. Such election must apply to the liability for

[3] 15 U.S.C. 717r (1963).

[4] Appendix A sets forth a list of all parties that have filed a petition for rehearing of Order No. 526.

all vacation pay accounts maintained by the taxpayer within a single trade or business if the liability is contingent when vacation pay is earned.

(b) *Time for making election.* (1) In the case of a taxpayer who established or maintained a vacation pay account pursuant to I.T. 3956 and who continued to maintain such account pursuant to section 97 of the Technical Amendments Act of 1958, as amended, for its last taxable year ending before January 1, 1973, the election must be made for each trade or business for which such account was maintained on or before the later of (i) July 21, 1975, or (ii) the due date for filing the income tax return (determined with regard to any extensions of time granted the taxpayer for filing such return) for the first taxable year beginning after December 31, 1973. The election pursuant to this paragraph shall be effective with respect to an account described in this paragraph (b)(1) for taxable years ending after December 31, 1972. Failure to file such election shall constitute a change in the method of accounting for vacation pay for the first taxable year ending after December 31, 1972. Such change in accounting method will be considered a change initiated by the taxpayer.

(2) In the case of a trade or business of a taxpayer to which paragraph (b)(1) does not apply, the election provided for in this section may be made for any taxable year beginning after December 31, 1973, by making the election not later than (i) July 21, 1975, or (ii) the due date for filing the income tax return (determined with regard to any extensions of time granted the taxpayer for filing such return) for the first taxable year for which the election is made.

(3) A taxpayer who elects under section 463 to treat vacation pay as provided in this section and who wishes to revoke such election may only do so with the consent of the Commissioner. Such revocation shall constitute a change in the method of accounting.

(c) *Manner of making election.* (1) Except as otherwise provided in paragraph (c)(2) of this section, the election provided for in this section must be made by means of a statement attached to a timely filed income tax return. The statement shall indicate that the taxpayer is electing to apply the provisions of section 463, and shall contain the following information:

(i) The taxpayer's name and a description of each vacation pay plan to which the election is to apply.

(ii) A schedule with appropriate explanations showing—

(A) In the case of a vacation pay account established or maintained pursuant to I.T. 3956 and section 97 of the Technical Amendments Act of 1958, as amended,

(*1*) The balance of each such vacation pay account maintained by the taxpayer, and

(*2*) The amount, determined as if the taxpayer had maintained a vacation pay account for the last taxable year ending before January 1, 1973, representing the taxpayer had maintained a vacation pay earned by employees, before the close of the taxable year and payable during such taxable year or within 12 months following the close of such taxable year.

(B) In the case of other vacation pay accounts, the amount of the closing balances the taxpayer would have had for the taxpayer's 3 taxable years immediately preceding the taxable year for which the election was made, had the taxpayer maintained an account representing the taxpayer's liability for vacation pay earned by the employees before the close of the taxable year and payable during the taxable year or within 12 months following the close of the taxable year throughout the 3 immediately preceding taxable years.

(iii) The amounts accrued and deducted for prior years for vacation pay but not paid at the close of the taxable year preceding the year for which the election is made.

(2) Where a taxpayer has filed its return for a taxable year beginning after December 31, 1973 prior to July 21, 1975, and has not made the election pursuant to this section, the election may be made by filing an amended return (showing adjustmens, in any) for such year and attaching the statement required by paragraph (c)(1) of this section on or before July 21, 1975.

(d) The time for making the election may be illustrated by the following examples:

Example (1). X, whose taxable year begins on February 1, files its return based on the accrual method of accounting. X has continuously accrued and deducted for income tax purposes contingent amounts of vacation pay, pursuant to I.T. 3956. Pursuant to section 463 and these regulations, in order for X to continue accruing and deducting its vacation pay amounts, X must elect to account for vacation pay under section 463 by attaching the election to its timely filed return for its taxable year ending on January 31, 1975 or if X has already filed such return by July 21, 1975 without such election, by filing the election statement with an amended return by July 21, 1975. If X does not make the election under section 463, X will be treated as having initiated a change in its method of accounting for vacation pay in its taxable year ending on January 31, 1973.

Example (2). Y, a calendar year taxpayer, files its returns based on the accrual method of accounting. Y deducted its vacation pay amounts only when paid since such amounts were contingent when earned and Y was not entitled to the benefits of I.T. 3956. Y may elect for its taxable year ending on December 31, 1974, to deduct certain amounts with respect to contingent vacation pay which were not otherwise deductible, by filing an election pursuant to these regulations with its timely filed income tax return for such year or if such return was already filed by [insert date 90 days after publication of this document as a Treasury decision], without such election, by filing the election with an amended return filed by July 21, 1975. If Y does not make the election for its taxable year ending on December 31, 1974, Y may make the election with respect to any subsequent taxable year by filing an election with its return for such year.

(Secs. 463(d), 7805, Internal Revenue Code of 1954 (68A Stat. 917; 88 Stat. 2111, 26 U.S.C. 463(d), 7805))

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

Approved: April 16, 1975.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.75-10392 Filed 4-18-75;8:45 am]

[T.D. 7354]

PART 11—TEMPORARY INCOME TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Temporary Regulations Relating to Elections With Respect to Changes in Vesting Schedule

This document contains temporary income tax regulations under section 411(a)(10)(B) of the Internal Revenue Code of 1954, as added by section 1012(a) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 88 Stat. 901), and section 203(c)(1)(B) of such Act (88 Stat. 857) in order to provide rules for an election with respect to a plan amendment which changes any vesting schedule under an employee plan.

Under section 411(a)(10)(B) of the Code, if the vesting schedule of a plan is amended, the plan will not be treated as meeting the minimum vesting requirements of section 411(a)(2) of the Code unless the plan, as amended, provides that each participant with at least 5 years of service with the employer may elect, within a reasonable period after the adoption of the amendment, to have his nonforfeitable percentage computed upon the plan without regard to such amendment. Under § 11.411(a)(10)(B)-1(a)(2) of the temporary regulations, the period during which such a participant may make the election under 411(a)(10)(B) of the Code must begin no later than the date the amendment is adopted and end no earlier than the latest of three dates: (1) 60 days after the amendment is adopted; (2) 60 days after the date the amendment becomes effective; or (3) 60 days after the participant is issued written notice of the amendment by the employer or plan administrator.

The temporary regulations provide that a participant meets the "5 years of service" requirement if he completes 5 years of service (as computed under the plan for the purpose of determining such participant's nonforfeitable percentage under section 411(a)(2) with the employer prior to the expiration of the election period.

The temporary regulations provide that the election is available only to individuals who are participants in the plan at the time the election is made.

The temporary regulations also provide that the application of section 411(a)(10)(B) of the Code will not cause a plan, as amended, to fail to meet the minimum vesting standards of section 411(a)(2)

merely because such plan provides that the election is irrevocable.

The temporary regulations apply for purposes of section 411(a)(10)(B) of the Code as well as section 203(c)(1)(B) of the Employee Retirement Income Security Act of 1974.

Amendment to the regulations. In order to prescribe temporary regulations relating to elections with respect to certain plan amendments pursuant to section 411(a)(10)(B) of the Internal Revenue Code of 1954, as added by section 1012 (a) of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 88 Stat. 901), and section 203(c)(1)(B) of such Act (88 Stat. 857), the following temporary regulations are hereby adopted:

§ 11.411(a)(10)(B)-1 Minimum vesting standards; election of former schedule.

(a) *Right to election*—(1) *In general.* Under section 411(a)(10)(B), for plan years for which section 411 applies, if the vesting schedule of a plan is amended, the plan will not be treated as meeting the minimum vesting standards of section 411(a)(2) unless the plan, as amended, provides that each participant whose nonfortfeitable percentage of his accrued benefit derived from employer contributions is determined under such schedule, and who has completed at least 5 years of service with the employer, may elect, during the election period, to have the nonforfeitable percentage of his accrued benefit derived from employer contributions determined without regard to such amendment.

(2) *Election period.* For purposes of subparagraph (1) of this paragraph, the election period under the plan must begin no later than the date the plan amendment is adopted and end no earlier than the latest of the following dates:

(i) The date which is 60 days after the day the plan amendment is adopted,

(ii) The date which is 60 days after the day the plan amendment becomes effective, or

(iii) The date which is 60 days after the day the participant is issued written notice of the plan amendment by the employer or plan administrator.

(3) *Service requirement.* For purposes of subparagraph (1) of this paragraph, a participant shall be considered to have completed 5 years of service if such participant has completed 5 years of service (as computed under the plan for the purpose of determining such participant's nonforfeitable percentage under section 411(a)(2)) with the employer prior to the expiration of the election period described in paragraph (a)(2) of this section.

(4) *Election only by participant.* The election described in paragraph (a)(1) of this section is available only to an individual who is a participant in the plan at the time such election is made.

(b) *Election may be irrevocable.* A plan, as amended, shall not fail to meet the minimum vesting standards of section 411(a)(2) by reason of section 411(a)(10)(B) merely because such plan provides that the election described in paragraph (a)(1) of this section is irrevocable.

Because of the need for immediate guidance with respect to the provisions contained in this Treasury decision, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 555 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

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

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

Approved: April 16, 1975.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.75-10393 Filed 4-18-75;8:45 am]

Title 36—Parks, Forests, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 270—RURAL COMMUNITY FIRE PROTECTION

A new Part 270 to Title 36 of the Code of Federal Regulations is issued by the Forest Service, U.S. Department of Agriculture, to implement a Rural Community Fire Protection program under the authority of Title IV of the Rural Development Act of 1972. These regulations have been coordinated with the National Association of State Foresters, Soil Conservation Service, Farmers Home Administration and Rural Development Service.

These regulations outline policies and procedures for extending technical, financial, and other assistance through administrative agreement to State Foresters or other appropriate State officials and officials in the Commonwealth of Puerto Rico, the Virgin Islands and Guam, in cooperative efforts to organize, train and equip local forces to prevent, control, and suppress fires threatening human life, livestock, wildlife, crops, pastures, orchards, rangeland, woodland, farmsteads, or other improvements and other values in rural areas.

The Forest Service has determined that rule making procedure was impracticable and contrary to the public interest since funds have to be obligated by June 30, 1975. These guidelines will become effective April 21, 1975.

Comments from interested parties are solicited, however, on or before May 21, 1975. Record of public comments will be made available to interested persons, and will be reviewed for possible revisions of these guidelines. Written comments or suggestions should be sent to Department of Agriculture, Forest Service, Division of Cooperative Forest Fire Control, 1621 N. Kent Street, Room 906, Arlington, Virginia 22209.

These regulations can be utilized to administer the acquisition and distribution of Federal Excess Personal Property by State Foresters or other appropriate state officials.

The new Part 270 reads as follows:

PART 270—RURAL COMMUNITY FIRE PROTECTION

Sec.

AUTHORITY: Title IV Rural Development Act of 1972, Secs. 401, 402, 403, 404, 86 Stat. 670; 671.

§ 270.1 General.

Firefighting forces to protect rural people, their property, their businesses, and the quality of their environment are either inadequate or have not been organized in many states. Lives homes, farm property, and small communities suffer heavy losses annually within rural areas. Local self-help has not been sufficient to meet the need. Property, scenic and resource values are high in these areas.

The Congress passed the Rural Development Act of 1972 as a measure to provide assistance to these rural areas. Title IV of this Act, entitled Rural Community Fire Protection, consists of four sections and prescribes a 3 year program to determine the feasibility of this approach.

(a) Section 401, amended to read "Fire Protection Assistance", authorizes the Secretary of Agriculture to provide technical and financial assistance to the State Foresters and other governing officials to organize, train, and equip local forces in communities under 10,000 population.

(b) Section 402 authorizes the Secretary to match funds with local or State organizations on a 50 percent basis.

(c) Section 402 requires a progress report to the President within 2 years of date of enactment (August 25, 1972).

(d) Section 404, as amended authorizes the appropriation of $7 million for each of three consecutive fiscal years beginning with the fiscal year for which funds are first appropriated and obligated by the Secretary of Agriculture carrying out this Title.

On page 31 of the House of Representatives Conference Report 92-1129, the statement is made: "The Conferees expect the Secretary, prior to initiating this pilot program, to designate areas of the United States which are particularly vulnerable to the hazards of fires." Also on page 31: "In addition, the Conferees expect the Secretary, in implementing the Rural Community Fire Protection Program, to give special attention to those areas and communities that have inadequate or nonexistent fire protection facilities."

§ 270.2 Definition of vulnerable areas.

Guidelines were developed by approaching the Conferees requirement from a viewpoint of the rural resident vulnerability. This required, first, a definition of vulnerability as applied to a

hazardous area, and secondly, a method of determining vulnerability in all parts of the Nation. The existence of a highly flammable fuel complex does not in itself denote vulnerability. Rural residents can be vulnerable if high value improvements are unprotected any place in the United States. The definition of vulnerability to the hazards of fire was resolved by preparing a formula comprising a balance of population, wildland fuels, and fuels which represent increased value because of time or money spent to cultivate them. The three elements of the vulnerability index become croplands (including row crops, small grains, fruit and nut crops), other lands as defined in the 1967 Conservation Needs Inventory (including farmlands not classified as croplands, farmsteads, farm roads, etc.), and population of rural areas under 10,000. These elements provide the index of the ability of a fire to inflict fatalities, injuries, and damages.

§ 270.3 Fund distribution.

Distribution of funds will be made to the office responsible for the program in each State, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam. In general, distribution will be determined as follows: Up to 5% will be used for Federal Administration, the remainder will consider "Croplands" and "Other Lands" as defined in Conservation Needs Inventory—1967, and population in towns under 10,000 and in rural areas, 1970 census. After rural fire protection grants have been made, eligible applicants may apply, if necessary, to the local Farmers Home Administration county office for an essential community facility loan to supplement the financing of the rural fire protection facilities and equipment.

§ 270.4 Determination of protection adequacy.

In preparing guidelines for giving "special attention to those areas and communities that have inadequate or nonexistant fire protection facilities", it was determined that the only nationwide indicator of adequacy was the availability of insurance at reasonable rates. Adequate protection is defined as a rating of 9 or better for structural insurance in a rural situation. The adequacy of protection will be determined by the administering official when a project is proposed by a community. The selection of the participating communities will be based on vulnerability and the adequacy of existing fire protection.

§ 270.5 Project selection guidelines.

The participating units of Government, operating through cooperative arrangements between the Secretary of Agriculture and the governing official will:

(a) Give priority to areas of greatest need.

(b) Give high priority to multiagency financed projects.

(c) Use insurance rating criteria for approving rural fire apparatus (minimum G.P.M., tank capacity, etc.).

(d) Place a $22,500 maximum limit for the Federal share of any unit of fire apparatus with adjustment provided for decreasing purchasing power of the dollar.

(e) Establish minimum training standards for both structural and wildfire attack.

(f) Use existing capabilities whenever possible for organizing, training, planning, and purchase of equipment.

(g) Establish minimum communication standards for participating projects.

(h) Use National Fire Protection Association material as a base for guidelines in organizational, training and equipment, and communication minimums.

(i) Evaluate each project for compatibility with fire protection plans, and modify one or the other, if necessary, before approval.

(j) Assess project priorities using the fund distribution formula procedures.

§ 270.6 Program evaluation criteria.

The statistical elements needed to evaluate the "contribution of the rural fire protection program toward achieving the purposes of this title" are:

(a) The number of organizations formed under approved fire plans (the formation of fire districts or other legal entities will be encouraged).

(b) The number of people trained under the following categories as prescribed by the State Forester or other administering official:

(1) *Wildland firefighting.* (i) Basic.
(ii) Advanced.
(2) *Structural firefighting.* (i) Basic.
(ii) Advanced.

(c) The number of pieces of fire apparatus acquired for the program.

(d) Dollar value of other acquired equipment, classified in broad categories, such as hand tools, communication equipment, etc.

(e) Improved insurance classification.

(f) Number of cooperative agreements with other agencies communities, or legal entities.

(g) Number of fire alarms answered by organizations formed.

§ 270.7 Allotment of funds.

Project financing, including planning, organizing, and purchase of new equipment, will be accomplished within the program year. Training phases of a project may be accomplished over a period of 1 or more years.

§ 270.8 Federal excess personal property.

The use of Federal excess personal property for conversion or use by rural fire forces will be encouraged. This use will be authorized by the State Forester under existing Federal Excess Personal Property Guidelines as administered by the Forest Service and General Services Administration.

§ 270.9 Coordination.

Title IV operations will be consonant with all rural development activities under this Act and other pertinent Federal development programs. To such purpose, the Assistant Secretary for Conservation, Research, and Education, will implement Title IV plans and activities in close coordination with the Assistant Secretary for Rural Development.

Effective Date: This regulation is effective April 21, 1975.

ROBERT W. LONG,
Assistant Secretary.

APRIL 17, 1975.

[FR Doc.75-10432 Filed 4-18-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—PESTICIDE PROGRAMS

[(FRL 360-8) [PP3F1399/R19]]

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

Ethyl 3-Methyl-4-(Methylthio) Phenyl (1-Methylethyl) Phosporamidate

On July 3, 1973, notice was given (38 FR 17760) that Chemagro, Division of Baychem Corp., PO Box 4913, Kansas City MO 64120, had filed a petition (PP 3F1399) with the Environmental Protection Agency (EPA). This petition proposed establishment of a tolerance for residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodities tomatoes at 0.5 part per million (ppm); peanut hulls and potatoes at 0.4 ppm; bananas, brussels sprouts, cabbage, carrots, citrus, cotton forage, sugar beet tops, and sweet potatoes at 0.1 ppm; cottonseed, soybeans, and sugar beets at 0.05 ppm; and peanuts at 0.02 ppm. Chemagro subsequently amended the petition by withdrawing the proposed tolerance for bananas since a tolerance of 0.1 ppm is in effect and by withdrawing the proposed tolerances for residues of the nematocide in or on tomatoes, potatoes, carrots, citrus, cotton forage, sugar beet tops, sweet potatoes, and sugar beets.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purposes for which the tolerances are sought. There is no reasonable expectation of residues in eggs, meat, milk, and poultry, and § 180.6(a)(3) applies. The tolerance established by this amendment to § 180.349 will protect the public health.

Any person adversely affected by this regulation may on or before May 21, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M Street, SW, East Tower, Room 1019, Washington D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation 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.

Effective on the date of publication in the Federal Register, Part 180, Subpart C, is amended by revising Section 180.349.

(Sec. 408(d)(2), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)(2)))

Dated: April 11, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, is amended by revising § 180.349 to read as follows.

§ 180.349 Ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate; tolerance for residues.

Tolerances are established for combined residues of the nematocide ethyl 3-methyl-4-(methylthio) phenyl (1-methylethyl) phosphoramidate and its cholinesterase-inhibiting metabolites in or on raw agricultural commodities as follows:

0.4 part per million in or on peanut hulls.
0.1 part per million in or on bananas, brussels sprouts and cabbage.
0.05 part per million in or on cottonseed and soybeans.
0.02 part per million in or on peanuts.

[FR Doc.75-10268 Filed 4-18-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 144]

PART 1-7—CONTRACT CLAUSES

This amendment of the Federal Procurement Regulations establishes two new Subparts which are: 1-7.3, Fixed-Price Research and Development Contracts and 1-7.4, Cost-Reimbursement Type Research and Development Contracts, and prescribes clauses to be used in fixed-price and cost-reimbursement type research and development contracts.

The table of contents of Part 1-7 is amended by the deletion of the designations "Reserved" and the insertion of the captions "Fixed-Price Research and Development Contracts" for Subpart 1-7.3, and "Cost-Reimbursement Type Research and Development Contracts" for Subpart 1-7.4, and by the addition of new entries, as follows:

Subpart 1-7.3—Fixed-Price Research and Development Contracts

Subpart 1-7.4—Cost-Reimbursement Type Research and Development Contracts

Subpart 1-7.5—[Reserved]

Subpart 1-7.6—Fixed-Price Construction Contracts

Subpart 1-7.7—Transportation Contracts

A new Subpart 1-7.3 is added which reads as follows:

Subpart 1-7.3—Fixed-Price Research and Development Contracts

§ 1-7.300 Scope of subpart.

This subpart sets forth contract clauses for use in fixed-price research and development contracts.

§ 1-7.301 Applicability.

As used throughout this subpart, the term "fixed-price research and development contract" means any contract (other than a letter contract, a notice of award, or a modification not effecting new procurement) which (a) is entered into at a fixed-price in an amount exceeding $10,000 (with or without any provision for price redetermination, escalation, or other form of price revision), and (b) is for experimental, developmental, or research work. Unless clearly inappropriate, these clauses may also be used in other types of nonpersonal services contracts: e.g., studies, surveys, and demonstrations in socio-economic areas, except for (a) construction, (b) architect-engineer services, and (c) those subject to the Service Contract Act of 1965, as amended. In addition, the clauses may be used, as appropriate, in fixed-price procurement actions involving research and development which are less than $10,000.

§ 1-7.302 Required clauses.

The clauses set forth in this § 1-7.302 shall be inserted, as required, in all fixed-price research and development contracts.

§ 1-7.302-1 Definitions.

Insert the clause set forth in § 1-7.-102-1. Additional definitions may be included provided they are not inconsistent with the clause or the provisions of these regulations.

§ 1-7.302-2 Payments.

PAYMENTS

The Contractor shall be paid, upon submission of proper invoices or vouchers, the prices stipulated herein for work delivered or rendered and accepted, less deductions, if any, as herein provided. Unless otherwise specified, payment will be made upon acceptance of any portion of the work delivered or rendered for which a price is separately stated in the contract.

§ 1-7.302-3 Standards of work.

STANDARDS OF WORK

The Contractor agrees that the performance of work and services pursuant to the requirements of this contract shall conform to high professional standards.

§ 1-7.302-4 Inspection.

(a) The following clause shall be used where the primary contract objective is the delivery of end items other than designs, drawings, or reports, except where the contracting officer determines that the use of such clause is impracticable. Where this clause is not used, the clause in § 1-7.302-4(b) shall be used.

INSPECTION

(a) All work under this contract shall be subject to inspection and test by the Government, to the extent practicable, at all times (including the period of performance) and places, and in any event prior to acceptance. The Government through any authorized representative may inspect the premises of the Contractor or any subcontractor engaged in the performance of this contract.

(b) The Government may reject any work that is defective or otherwise not in conformity with the requirements of this contract. If the Contractor fails or is unable to correct or to replace such work, the Contracting Officer may accept such work at a reduction in price which is equitable under the circumstances. Failure to agree on the reduction in price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide, without additional charge, all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If the Government inspection or test is made at a point other than the premises of the Contractor or subcontractor, it shall be at the expense of the Government. All inspections and tests by the Government shall be performed in such a manner as not unduly to delay the work. Final inspection and acceptance or rejection of the work shall be made as promptly as practicable after delivery except as otherwise provided in this contract; but failure to inspect and accept, or reject the work shall neither relieve the Contractor from responsibility for such of the work as is not in accordance with the contract requirements nor impose liability on the Government therefor.

(d) The inspection and test by the Government of any work shall not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(e) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the work hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of this contract and for such longer period as may be specified elsewhere in this contract.

(b) The following clause shall be used in all contracts subject to § 1-7.301 where the clause in (a), above, is not used:

INSPECTION

The Government through any authorized representatives has the right, at all reasonable times, to inspect or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require his subcontractors to provide all reasonable

facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

§ 1–7.302–5 Assignment of claims.

Insert the clause set forth in § 1–30.703 under the conditions prescribed therein.

§ 1–7.302–6 Examination of records by Comptroller General.

Insert the clause set forth in § 1–7.103–3.

§ 1–7.302–7 Federal, State, and local taxes.

Insert either the clause in § 1–11.401–1 or the clause in § 1–11.401–2 and, when appropriate, insert the supplementary clause in § 1–11.401–3(a), in accordance with the conditions prescribed in those sections.

§ 1–7.302–8 Utilization of small business concerns.

Insert the clause set forth in § 1–1.710–3(a) under the conditions and in the manner prescribed therein.

§ 1–7.302–9 Default.

Insert the clause set forth in § 1–8.710 under the conditions prescribed in § 1–8.700–2(b)(3).

§ 1–7.302–10 Termination for convenience of the Government.

(a) Insert the clause set forth in § 1–8.701 under the conditions prescribed in § 1–8.700–2(a)(1).

(b) Insert the clause set forth in § 1–8.704–1 under the conditions prescribed in § 1–8.700–2(a)(4).

§ 1–7.302–11 Disputes.

Insert the clause set forth in § 1–7.102–12.

§ 1–7.302–12 [Reserved]

§ 1–7.302–13 Buy American Act.

Insert the clause set forth in § 1–6.104–5 under the conditions prescribed therein.

§ 1–7.302–14 Convict labor.

Insert the clause set forth in § 1–12.204 under the conditions prescribed in § 1–12.203.

§ 1–7.302–15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 1–12.605 under the conditions prescribed in § 1–12.602.

§ 1–7.302–16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in § 1–12.303 under the conditions prescribed in § 1–12.302.

§ 1–7.302–17 Equal opportunity.

Insert the clause set forth in § 1–12.803–2 under the conditions prescribed in § 1–12.803–1.

§ 1–7.302–18 Officials not to benefit.

Insert the clause set forth in § 1–7.102–17.

§ 1–7.302–19 Covenant against contingent fees.

Insert the clause set forth in §1–1.503 under the conditions prescribed in §1–1.501.

§ 1–7.302–20 [Reserved]

§ 1–7.302–21 [Reserved]

§ 1–7.302–22 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 1–7.103–4.

§ 1–7.302–23 Patents.

Insert the appropriate clause set forth in § 1–9.107 under the conditions contained in Subpart 1–9.1.

§ 1–7.302–24 [Reserved]

§ 1–7.302–25 [Reserved]

§ 1–7.302–26 Utilization of labor surplus area concerns.

Insert the clause set forth in § 1–1.805–3(a) under the conditions prescribed therein.

§ 1–7.302–27 [Reserved]

§ 1–7.302–28 [Reserved]

§ 1–7.302–29 Pricing of adjustments.

Insert the clause set forth in § 1–7.102–20 under the conditions prescribed therein.

§ 1–7.302–30 Listing of employment openings.

Insert the clause set forth in § 1–12.1102–2 under the conditions prescribed therein.

§ 1–7.302–31 Utilization of minority business enterprises.

Insert the clause set forth in § 1–1.1310–2(a) under the conditions prescribed therein.

§ 1–7.302–32 Payment of interest on contractors' claims.

Insert the clause set forth in § 1–1.322(b) under the conditions prescribed therein.

§ 1–7.302–33 Employment of the handicapped.

Insert the clause set forth in § 1–12.1304–1 under the conditions contained in the section.

§ 1–7.303 Clauses to be used when applicable.

§ 1–7.303–1 Clauses for fixed-price research and development contracts involving construction.

(a) Insert the clauses set forth in § 1–18.703 in fixed-price research and development contracts under the conditions prescribed in § 1–18.701–1. The clauses set forth in § 1–18.703 are listed for convenience as follows:

Davis-Bacon Act (40 U.S.C. 276a–276a–7).
Contract Work Hours and Safety Standards Act—overtime compensation (40 U.S.C. 327–333).
Apprentices and Trainees.
Payrolls and Payroll Records.
Compliance with Copeland Regulations.
Withholding of Funds.
Subcontracts.
Contract Termination—Debarment.
Disputes Concerning Labor Standards.

(b) Insert the clause set forth in § 1–18.605 in fixed-price research and development contracts under the conditions prescribed in Subpart 1–18.6.

§ 1–7.303–2 [Reserved]

§ 1–7.303–3 [Reserved]

§ 1–7.303–4 [Reserved]

§ 1–7.303–5 [Reserved]

§ 1–7.303–6 [Reserved]

§ 1–7.303–7 Government property.

(a) Insert the following clause when the Government is to furnish, or the contractor is to acquire, Government property:

GOVERNMENT PROPERTY

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described as Government-furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use (except for such property furnished "as is") will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor thereby, and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by any such delay, in accordance with the procedures provided for in the clause of this contract entitled "Changes." Except for Government-furnished property furnished "as is," in the event the Government-furnished property is received by the Contractor in a condition not suitable for the intended use the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of the property, or (2) effect repair or modification, in accordance with the procedures provided for in the clause of this contract entitled "Changes." The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b)(1) By notice in writing, the Contracting Officer may (i) decrease the property provided or to be provided by the Government under this contract, or (ii) substitute other Government-owned property for property to

be provided by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal and shipping of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to subparagraph (1), above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor (or, if the substitution of property causes a decrease in the cost of performance, on his own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution, or withdrawal, in accordance with the procedures provided for in the "Changes" clause of this contract.

(c) Title to all property furnished by the Government shall remain in the Government. In order to define the obligations of the parties under this clause, title to each item of facilities, special test equipment, and special tooling (other than that subject to a "Special Tooling" clause) acquired by the Contractor for the Government pursuant to this contract shall pass to and vest in the Government when its use in the performance of this contract commences, or upon payment therefor by the Government, whichever is earlier, whether or not title previously vested. All Government-furnished property, together with all property acquired by the Contractor title to which vests in the Government under this paragraph, is subject to the provisions of this clause and is hereinafter collectively referred to as "Government property." Title to Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(d) The Contractor shall be responsible for and accountable for all Government property provided under this contract. The Contractor shall establish and maintain a system to control, protect, preserve, and maintain all Government property. This system shall, upon request by the Contracting Officer, be submitted for review and, if satisfactory, approved in writing by the Contracting Officer. The Contractor shall maintain and make available such records as are required by the approved system and must account for all property until relieved of responsibility therefor in accordance with written instructions of the Contracting Officer.

(e) The Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(f) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the utilization, maintenance, repair, protection, and preservation of Government property until disposed of by the Contractor in accordance with this clause. In the event that any damage occurs to Government property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs: *Provided, however*, That if the Contractor cannot effect such repair within the time required, the Contractor shall dispose of such property in the manner directed by the Contracting Officer. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in any contractual provisions affected by such repair or replacement of Government property made at the direction of the Government, in accordance with the procedures provided for in the "Changes" clause of this contract. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at his own expense.

(g) Unless otherwise provided in this contract, the Contractor assumes the risk of, and shall be responsible for, any loss of or damage to Government property provided under this contract upon its delivery to him or upon passage of title thereto to the Government as provided in paragraph (c) hereof, except for reasonable wear and tear and except to the extent that such property is consumed in the performance of this contract.

(h) The Government, and any persons designated by it, shall at all reasonable times have access to the premises wherein any Government property is located, for the purpose of inspecting the Government property.

(i) Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property not consumed in the performance of this contract (including any resulting scrap) or not theretofore delivered to the Government, and shall prepare for shipment, delivery f.o.b. origin, or dispose of the Government property, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

(j) Unless otherwise provided herein, the Government:

(1) May abandon any Government property in place, and thereupon all obligations of the Government regarding such abandoned property shall cease; and

(2) Has no obligation to the Contractor with regard to restoration or rehabilitation of the Contractor's premises, neither in case of abandonment (paragraph (j)(1), above), disposition on completion of need or of the contract (paragraph (i), above), nor otherwise, except for restoration or rehabilitation costs which are properly included in an equitable adjustment under paragraph (b), above.

(k) All communications issued pursuant to this clause shall be in writing.

(b) In negotiated fixed-price contracts for which the price is not based on (1) adequate price competition, (2) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (3) prices set by law or regulations and (4) the price does not include any charges or reserve for insurance (including self insurance) covering damage to Government property, substitute the following paragraph (g) for paragraph (g) of the clause in § 1-7.303-7(a), above.

(g)(1) Except as provided in (2), below, the Contractor shall not be liable for loss or destruction of or damage to the Government property provided under this contract:

(i) Caused by any peril while the property is in transit off the Contractor's premises; or

(ii) Caused by any of the following perils while the property is on the Contractors or subcontractor's premises, or on any other premises where such property may properly be located, or by removal therefrom because of any of the following perils:

(A) Fire; lighting, windstorm, cyclone, tornado, hail; explosion; riot, riot attending a strike, civil commotion; vandalism and malicious mischief; sabotage; aircraft or objects falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the Contractor or any agent or employee of the Contractor; smoke; sprinkler leakage; earthquake or volcanic eruption; flood, meaning thereby rising of a body of water; nuclear reaction, nuclear radiation or radioactive contamination; hostile or warlike action, including action in hindering, combating, or defending against an actual, impending, or expected attack by any government or sovereign power (de jure or de facto), or by any authority using military, naval, or air forces; or by an agent of any such government, power, authority, or forces; or

(B) Other peril, of a type not listed above, if such other peril is customarily covered by insurance (or by a reserve for self-insurance) in accordance with the normal practice of the Contractor, or the prevailing practice in the industry in which the Contractor is engaged with respect to similar property in the same general locale.

The perils as set forth in (i) and (ii), above, are hereinafter called "excepted perils."

If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of or damage to the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of or damage to the property while in the latter's possession or control, except to the extent that the subcontract, with the prior approval of the Contracting Officer, provides for the relief of the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except for reasonable wear and tear or for the utilization of the property in accordance with the provisions of the prime contract.

(2) Notwithstanding (1), above, the Contractor shall be responsible for any loss or damage (a) to the extent specifically provided in the clause or clauses of this contract designated in the schedule, or (b) which results from:

(i) Willful misconduct or lack of good faith of any of the Contractor's managerial personnel; or

(ii) A failure on the part of the Contractor, due to willful misconduct or lack of good faith of the Contractor's managerial personnel, (aa) to maintain and administer the program for maintenance, repair, protection, and preservation of the Government property as required by paragraph (f) hereof, or (bb) to establish, maintain, and administer a system for control of Government property as required by paragraph (d) of this clause.

Any failure of the Contractor to act, as provided in this (ii), shall be conclusively presumed to be a failure resulting from willful misconduct, or lack of good faith on the part of one of the Contractor's managerial personnel if the Contractor is notified by the Contracting Officer by registered or certified mail addressed to one of the Contractor's managerial personnel, of the Government's disapproval, withdrawal of approval, or nonacceptance of the Contractor's program or system. In such event, it shall be presumed that any loss of or damage to Government property resulted from such failure. The Contractor shall be liable for such loss or damage unless he can establish by clear and convincing evidence that such loss or damage did not result from his failure to maintain an approved program or system, or occurred during such time as an approved

program or system for control of Government property was maintained.

The term "Contractor's managerial personnel" as used herein means the Contractor's directors, officers, and any of his managers, superintendents, or other equivalent representatives who have supervision or direction of:

(A) All or substantially all of the Contractor's business;

(B) All or substantially all of the Contractor's operation at any one plant or separate location at which the contract is being performed; or

(C) A separate and complete major industrial operation in connection with the performance of this contract.

(3) The Contractor represents that he is not including in the price hereunder, and agrees that he will not hereafter include in any price to the Government, any charge or reserve for insurance (including any self-insurance funds or reserve) covering loss or destruction of or damage to the Government property caused by any excepted peril.

(4) Upon the happening of loss or destruction of or damage to any Government property caused by an excepted peril, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the loss and salvage organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the loss and salvage organization so designated (unless the Contracting Officer has directed that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made by him in performing his obligations under this subparagraph (4) (including charges made to the Contractor by the loss and salvage organization, except any of such charges the payment of which the Government has, at its option, assumed directly), in accordance with the procedures provided for in the "Changes" clause of this contract.

(5) With the approval of the Contracting Officer after loss or destruction of or damage to Government property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(6) Except to the extent of any loss or destruction of or damage to Government property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government property in accordance with the provisions of this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of or damage to the Government property, and such property (other than that which is permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (f), above.

(7) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government property, caused by an excepted peril, he shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction, or damage, and, upon the request of the Contracting Officer, shall at the Government's expense furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of or damage to the Government property, the Contractor shall enforce the liability of the subcontractor for such loss or destruction of or damage to the Government property for the benefit of the Government.

(c) The following short form clause may be used when the Government is to furnish to the contractor Government property having an acquisition cost of $25,000 or less:

GOVERNMENT-FURNISHED PROPERTY (SHORT FORM)

(a) The Government shall delivery to the Contractor, for use only in connection with this contract, the property described in the schedule or specifications (hereinafter referred to as "Government-furnished property"), at the times and locations stated therein. If the Government-furnished property, suitable for its intended use, is not so delivered to the Contractor, the Contracting Officer shall, upon timely written request made by the Contractor, and if the facts warrant such action, equitably adjust any affected provision of this contract pursuant to the procedures of the "Changes" clause hereof.

(b) Title to Government-furnished property shall remain in the Government. The Contractor shall maintain adequate property control records of Government-furnished property in accordance with sound industrial practice.

(c) Unless otherwise provided in this contract, the Contractor, upon delivery to him of any Government-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this contract.

(d) The Contractor shall, upon completion of this contract, prepare for shipment, deliver f.o.b. origin, or dispose of all Government-furnished property not consumed in the performance of this contract or not theretofore delivered to the Government, as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or paid in such other manner as the Contracting Officer may direct.

(d) Insert the following clause when the contract is without profit or fee and is with an educational or nonprofit institution:

GOVERNMENT PROPERTY (FIXED-PRICE, NONPROFIT)

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described as Government-furnished property in the Schedule or specifications, together with such related data and information as the Contractor may request and as may reasonably e required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use (except for such property furnished "as is") will be delivered to the Contractor at the times stated in the Schedule, or, if not so stated, in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay, if any, occasioned by the Contractor thereby, and shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by any such delay. Except for Government-furnished property furnished "as is," in the event that Government-furnished property is received by the Contractor in a condition not suitable for its intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (1) return such property at the Government's expense or otherwise dispose of such property, or (2) effect repairs or modifications. Upon completion of (1) or (2), above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the delivery or performance dates or the contract price, or both, and any other contractual provision affected by the return, disposition, repair, or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable to suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b)(1) By notice in writing, the Contracting Officer (i) may decrease the property furnished or to be furnished by the Government under this contract, or (ii) substitute other Government-owned property for property to be furnished by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal, shipping, and disposal of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to paragraph (1), above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor (or, if the substitution of property causes a decrease in the cost of performance, on his own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution or withdrawal, in accordance with the procedures provided in the "Changes" clause of this contract.

(c)(1) Title to all property furnished by the Government shall remain in the Government.

(2) Notwithstanding subparagraph (c)(1) above, title to equipment purchased with funds available for research, having an acquisition cost of less than $1,000, shall vest

in the Contractor upon acquisition or as soon thereafter as feasible, provided that the Contractor shall have obtained approval of the Contracting Officer prior to acquisition of such property.

(3) Title to equipment having an acquisition cost of $1,000 or more, purchased with funds available for the conduct of research, shall vest as set forth in the contract.

(4) If title to equipment is vested pursuant to (c)(2) or (c)(3) above, the Contractor agrees that no charge will be made to the Government for any depreciation, amortization, or use charge with respect to such equipment under any existing or future Government contract or subcontract thereunder.

(5) The Contractor shall furnish the Contracting Officer a list of all equipment acquired under subparagraph (c)(2) above within ten (10) days following the end of the calendar quarter during which such equipment was received.

(6) All Government furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this clause, is hereinafter collectively referred to as "Government property."

(7) Title to Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(8) In order to define the obligations of the parties under this clause, where title to each item of facilities, special test equipment, and special tooling (other than that subject to a "Special Tooling" clause) acquired by the Contractor is to vest in the Government, title shall pass to and vest in the Government when its use in the performance of this contract commences, or upon payment therefor by the Government, whichever is earlier, whether or not title previously vested.

(d) The Contractor shall be responsible for and accountable for all Government property provided under this contract. The Contractor shall establish and maintain a system to control, protect, preserve, and maintain all Government property. This syatem shall, upon request by the Contracting Officer, be submitted for review and, if satisfactory, approved in writing by the Contracting Officer. The Contractor shall maintain and make available such records as are required by the approved system and must account for all property until relieved of responsibility therefor in accordance with written instructions of the Contracting Officer.

(e) The Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(f) The Contractor shall maintain and administer, in accordance with sound business practice, a program for the utilization, maintenance, repair, protection, and preservation of Government property, until disposed of by the Contractor in accordance with this clause. In the event that any damage occurs to Government property the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs: *Provided, however,* That if the Contractor cannot effect such repair within the time required, the Contractor may reject such property. The contract price includes no compensation to the Contractor for the performance of any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in any contractual provision affected by the repair or replacement of Government property made at the direction of the Government. Any repair or replacement for which the Contractor is responsible under the provision of this contract shall be accomplished by the Contractor at his own expense.

(g)(1) The Contractor shall not be liable for any loss of or damage to the Government property, or for expenses incidental to such loss or damage except that the Contractor shall be liable for any loss or damage to Government property provided under this contract upon its delivery to him or passage of title to the Government as provided in paragraph (c), above (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of his managers, superintendents, or other equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed;

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in subparagraph (i), above:

(A) To maintain and administer, in accordance with sound industrial practice, the program for maintenance, repair, protection, and preservation of Government property as required by paragraph (f), hereof, or to take all reasonable steps to comply with any appropriate written direction of the Contracting Officer under paragraph (f), hereof; or

(B) To establish, maintain, and administer, in accordance with paragraph (d), above, a system for control of Government property.

(iii) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the Schedule;

(iv) Which results from a risk expressly required to be insured under some other provision of this contract, or of the Schedules or task orders thereunder, but only to the extent of the insurance so required to be procured and maintained or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement.

Any failure of the Contractor to act, as provided in subparagraph (ii), above, shall be conclusively presumed to be a failure resulting from willful misconduct, or lack of good faith on the part of such directors, officers, or other representatives mentioned in subparagraph (i), above, if the Contractor is notified by the Contracting Officer by registered or certified mail, addressed to one of such directors, officers, or other representatives of the Government's disapproval, withdrawal of approval, or nonacceptance of the Contractor's program or system. In such event, it shall be presumed that any loss or damage to Government property resulted from such failure. The Contractor shall be liable for such loss or damage unless he can establish by clear and convincing evidence that such loss or damage did not result from his failure to maintain an approved program or system, or occurred during such time as an approved program or system for control of Government property was maintained.

If more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) The Contractor represents that he is not including in the price hereunder, and agrees that he will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserves) covering loss or destruction of or damage to the Government property, except to the extent that the risk of loss is imposed on the Contractor under (1)(iii), above, or insurance has been required under (1)(iv), above.

(3) Upon the happening of loss or destruction of or damage to any Government property, the Contractor shall notify the Contracting Officer thereof and shall communicate with the loss and salvage organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the loss and salvage organization so designated (unless the Contracting Officer has directed that no such organization be employed) shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property.

The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made by him in performing his obligations under this subparagraph (3) (including charges made to the Contractor by the loss and salvage organization, except any of such charges the payment of which the Government has, at its option, assumed directly).

(4) With the approval of the Contracting Officer after loss or destruction of or damage to Government property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(5) Except to the extent of any loss or destruction of or damage to Government property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government property in accordance with the provisions of this contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of or damage to the Government property, and such property (other than that which is permitted to be sold) shall be returned to the Government in as good condition as when received by the Contractor in connection with this contract, or as repaired under paragraph (f), above.

(6) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government property, he shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction, or damage and, upon the request of the Contracting Officer, shall at

the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(h) The Government, and any persons designated by it, shall at all reasonable times have access to the premises wherein any Government property is located, for the purpose of inspecting the Government property.

(i) Upon completion or expiration of this contract, any Government property which has not been consumed in the performance of this contract, or which has not been disposed of as provided for elsewhere in this clause, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of in the same manner, and subject to the same procedures, as is provided in the clause of this contract entitled "Termination for the Convenience of the Government" with respect to termination inventory. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract, or shall otherwise be credited to the price or costs of the work covered by this contract, or shall be paid in such other manner as the Contracting Officer may direct. Pending final disposition of such property, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation thereof.

(j) If the Contractor determines any Government property to be in excess of his needs under this contract, such Government property shall be disposed of in the same manner as provided by paragraph (i), above, except that the Government may abandon any Government property in place and thereupon all obligations of the Government regarding such abandoned property shall cease. The Government has no obligation to the Contractor with regard to restoration or rehabilitation of the Contractor's premises, neither in case of abandonment, disposition pursuant to paragraph (i), above, nor otherwise, except for restoration or rehabilitation costs which are properly included in an equitable adjustment under paragraph (b), above.

(k) All communications issued pursuant to this clause shall be in writing.

§ 1–7.303–8 [Reserved]

§ 1–7.303–9 Notice to the Government of labor disputes.

Insert the clause set forth in § 1–7.203–3 under the conditions prescribed therein.

§ 1–7.303–10 [Reserved]

§ 1–7.303–11 [Reserved]

§ 1–7.303–12 Subcontracts.

The following clause may be inserted in fixed-price research and development contracts whenever it is likely that subsequent to award major modifications will be initiated pursuant to the Changes clause, or other contract provisions, and that such modifications will result in the placement of additional subcontracts. The pricing arrangements of such subcontracts have an impact upon the final price of the modification; therefore, it is essential that they be made available by the contractor for review by the contracting officer (see §§ 1–3.807–10(b) and 1–3.903).

SUBCONTRACTS

(The provisions of this clause do not apply to firm fixed-price and fixed price with escalation (economic price adjustment) contracts. The clause does apply to new subcontracts or modifications of existing subcontracts which are necessitated because of unpriced contract changes pursuant to the Changes clause or other provisions of this contract.)

(a) As used in this clause, the term "subcontract" includes purchase orders.

(b) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract if the Contractor's procurement system has not been approved by the Contracting Officer and if the subcontract:

(i) Is to be a cost-reimbursement, time and materials, or labor-hour contract which it is estimated will involve an amount in excess of ten thousand dollars ($10,000) including any fee;

(ii) Is proposed to exceed one hundred thousand dollars ($100,000); or

(iii) Is one of a number of subcontracts, under this contract, with a single subcontractor for the same or related supplies or services which, in the aggregate, are expected to exceed one hundred thousand dollars ($100,000).

(c) The advance notification required by paragraph (b) above shall include:

(i) A description of the supplies or services to be called for by the subcontract;

(ii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected, including the competition obtained;

(iii) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(iv) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, when such data and certificates are required by other provisions of this contract to be obtained from the subcontractor;

(v) Identification of the type of subcontract to be used;

(vi) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the Contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not required, and, if it was not required in the case of any price negotiation in excess of $100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the Contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the Contractor and subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain this difference;

(vii) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee profit plan identifying each critical performance element, management decisions used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time; and

(viii) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract to be obtained from the subcontractor.

(d) The Contractor shall not enter into any subcontract for which advance notification to the Contracting Officer is required by this clause, without the prior written consent of the Contracting Officer; *provided* That the Contracting Officer, in his discretion, may ratify in writing any subcontract. Such ratification shall constitute the consent of the Contracting Officer required by this paragraph.

(e) Neither consent by the Contracting Officer to any subcontract or any provisions thereof nor approval of the Contractor's procurement system shall be construed to be a determination of the acceptability of any subcontract price or of any amount paid under any subcontract or to relieve the Contractor of any responsibility for performing this contract, unless such approval or consent specifically provides otherwise.

(f) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

§ 1–7.303–14 [Reserved]

§ 1–7.303–15 [Reserved]

§ 1–7.303–16 Price reduction for defective cost or pricing data.

Insert the appropriate clause set forth in § 1–3.814–1 under the conditions prescribed therein.

§ 1–7.303–17 [Reserved]

§ 1–7.303–18 [Reserved]

§ 1–7.303–19 [Reserved]

§ 1–7.303–20 [Reserved]

§ 1–7.303–21 Advance payments.

When advance payments are to be made in accordance with Subpart 1–30.4, insert the appropriate provisions as prescribed in § 1–30.414–2.

§ 1–7.303–22 Workmen's compensation insurance (Defense Base Act).

Insert the clause set forth in § 1–10.402 under the conditions prescribed therein.

§ 1–7.303–23 Progress payments.

When progress payments are to be made in accordance with Subpart 1–30.5, insert the appropriate provisions as prescribed in § 1–30.510.

§ 1–7.303–24 Required source for jewel bearings.

Insert the clause set forth in § 1–1.319 under the conditions prescribed therein.

§ 1–7.303–25 [Reserved]

§ 1–7.303–26 Interest.

Insert the clause set forth in § 1–7.203–15 under the conditions prescribed therein.

§ 1–7.303–27 Competition in subcontracting.

Insert the clause set forth in § 1–7.202–30 in contracts over $10,000, except in firm fixed-price contracts where award is on the basis of effective price competition or where prices are established by law or regulation.

§ 1–7.303–28 Audit and records.

Insert the appropriate clause or clauses set forth in § 1–3.814–2 under the conditions prescribed therein.

§ 1–7.303–29 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in § 1–3.814–3 under the conditions prescribed therein.

§ 1–7.303–30 [Reserved]

§ 1–7.303–31 [Reserved]

§ 1–7.303–32 [Reserved]

§ 1–7.303–33 [Reserved]

§ 1–7.303–34 [Reserved]

§ 1–7.303–35 [Reserved]

§ 1–7.303–36 [Reserved]

§ 1–7.303–37 [Reserved]

§ 1–7.303–38 [Reserved]

§ 1–7.303–39 [Reserved]

§ 1–7.303–40 [Reserved]

§ 1–7.303–41 United States products and services (Balance of Payments Program).

Insert the clause set forth in § 1–6.806–4 under the conditions prescribed in Subpart 1–6.8.

§ 1–7.303–42 [Reserved]

§ 1–7.303–43 [Reserved]

§ 1–7.303–44 Care of laboratory animals.

Insert the following clause in all contracts involving the use of experimental or laboratory animals:

CARE OF LABORATORY ANIMALS

(a) Before undertaking performance of any contract involving the use of laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with Section 6, P.L. 89–544, Laboratory Animal Welfare Act, August 24, 1966, as amended by P.L. 91–579, Animal Welfare Act of 1970, December 24, 1970. The Contractor shall furnish evidence of such registration to the Contracting Officer.

(b) The Contractor shall acquire animals used in research and development programs from a dealer licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in (a), above, of this provision.

(c) In the care of any live animals used or intended for use in the performance of this contract, the Contractor shall adhere to the principles enunciated in the Guide for Care and Use of Laboratory Animals prepared by the Institute of Laboratory Animal Resources, National Academy of Sciences (NAS)—National Research Council (NRC), and in the United States Department of Agriculture's (USDA) regulations and standards issued under the Public Laws enumerated in (a) above. In case of conflict between standards, the higher standard shall be used. Contractor reports on portions of the contract in which animals were used shall contain a certificate stating that the animals were cared for in accordance with the principles enunciated in the Guide for Care and Use of Laboratory Animals prepared by the Institute of Laboratory Animal Resources, NAS–NRC, and/or in the regulations and standards as promulgated by the Agricultural Research Service, USDA, pursuant to the Laboratory Animal Welfare Act of August 24, 1966, as amended (P.L. 89–544 and P.L. 91–579).

NOTE: The Contractor may request registration of his facility and a current listing of licensed dealers from the Regional Office of the Animal and Plant Health Inspection Service (APHIS), USDA, for the region in which his research facility is located. The location of the appropriate APHIS Regional Office as well as information concerning this program may be obtained by contacting the Senior Staff Officer, Animal Care Staff, USDA/APHIS, Federal Center Building, Hyattsville, MD 20782.

§ 1–7.303–45 [Reserved]

§ 1–7.303–46 Insurance.

Insert the following clause in all contracts requiring work on a Government installation. The clause is not required for contracts (a) of $10,000 or less, (b) when only a small amount of work is required to be performed on the Government installation such as occasional visits, and (c) where all the work on a Government installation is to be performed outside the United States, its possessions, and the Commonwealth of Puerto Rico.

INSURANCE

(a) The Contractor shall, at his own expense, procure and maintain during the entire performance period of this contract insurance of at least the kinds and minimum amounts set forth in the Schedule of this contract.

(b) At all times during performance, the Contractor shall maintain with the Contracting Officer a current Certificate of Insurance showing at least the insurance required by the Schedule, and providing for 30 days written notice to the Contracting Officer by the insurance company prior to cancellation or material change in policy coverage.

(c) The Contractor shall also require all first-tier subcontractors who will perform work on a Government installation to procure and maintain the insurance required by the Schedule during the entire period of their performance. The Contractor shall furnish (or assure that there has been furnished) to the Contracting Officer a current Certificate of Insurance meeting the requirements of (b), above, for each such first-tier subcontractor, at least 5 days prior to entry of each such subcontractor's personnel on the Government installation.

§ 1–7.303–47 [Reserved]

§ 1–7.303–48 [Reserved]

§ 1–7.303–49 [Reserved]

§ 1–7.303–50 [Reserved]

§ 1–7.303–51 Minority business enterprises subcontracting program.

Insert the clause set forth in § 1–1.1310–2(b) under the conditions and in the manner prescribed therein.

§ 1–7.303–52 [Reserved]

§ 1–7.303–53 [Reserved]

§ 1–7.303–54 [Reserved]

§ 1–7.303–55 Cost accounting standards.

(a) Insert the notice for solicitations set forth in § 1–3.1203(a)(3) in negotiated solicitations under the conditions contained in Subpart 1–3.12.

(b) Insert the contract clause set forth in § 1–3.1204 in negotiated contracts under the conditions contained in Subpart 1–3.12.

§ 1–7.303–56 [Reserved]

§ 1–7.303–57 [Reserved]

§ 1–7.303–58 Labor surplus area subcontracting program.

Insert the clause set forth in § 1–1.805–3(b) under the conditions and in the manner prescribed therein.

§ 1–7.303–59 Small business subcontracting program.

Insert the clause set forth in § 1–1.710–3(b) under the conditions and in the manner prescribed therein.

§ 1–7.303–60 [Reserved]

§ 1–7.303–61 [Reserved]

§ 1–7.303–62 [Reserved]

§ 1–7.303–63 Preference for U.S. flag air carriers.

Insert the clause set forth in § 1–1.323–2 under the conditions prescribed therein.

§ 1–7.303–64 Contracts with the Small Business Administration.

(a) Insert the clause set forth in § 1–1.713–3(d)(1) in contracts with the Small Business Administration awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(b) Insert the clause set forth in § 1–1.713–3(e) in subcontracts which will be executed by the Small Business Administration and its subcontractors.

§ 1–7.304 Additional clauses.

The following clauses may be inserted in fixed-price research and development contracts when it is desired to cover the subject matter thereof.

§ 1–7.304–1 Changes.

CHANGES

The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing; and (iii) place of inspection, delivery, or acceptance. If any such change causes an increase or decrease in the cost of, or the time required for performance of, this contract, or otherwise affects any other provisions of this contract, whether changed or not changed by any such order, an equitable adjustment shall be made (i)

in the contract price or time of performance, or both, and (ii) in such other provisions contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes". However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

The period of "30 days" within which a claim must be asserted may be varied in accordance with agency procedures.

§ 1–7.304–2 Alterations in contract.

Insert the clause set forth in § 1–7.204–1.

§ 1–7.304–3 Approval of contract.

Insert the clause set forth in § 1–7.204–2.

§ 1–7.304–4 [Reserved]

§ 1–7.304–5 Notice regarding late delivery.

Insert the clause set forth in § 1–7.204–4.

§ 1–7.304–6 Key personnel.

KEY PERSONNEL

The personnel specified in an attachment to this contract are considered to be essential to the work being performed hereunder. Prior to diverting any of the specified individuals to other programs, the Contractor shall notify the Contracting Officer reasonably in advance and shall submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program. No diversion shall be made by the Contractor without the written consent of the Contracting Officer; *Provided,* That the Contracting Officer may ratify in writing such diversion and such ratification shall constitute the consent of the Contracting Officer required by this clause. The attachment to this contract may be amended from time to time during the course of the contract to either add or delete personnel, as appropriate.

§ 1–7.304–7 Liquidated damages.

Insert the provision set forth in § 1–1.315–3 under the conditions and in the manner prescribed in § 1–1.315. Where Standard Form 32 is not included in the contract, the provision set forth in § 1–1.315–3 shall be modified by replacing the first paragraph with appropriate references to the Default clause contained in the contract.

§ 1–7.304–8 Disposition of material.

DISPOSITION OF MATERIAL

Upon termination or completion of all work under this contract, the Contractor shall prepare for shipment, deliver f.o.b. destination, or dispose of all materials received from the Government and all residual materials produced in connection with the performance of this contract as may be directed by the Contracting Officer, or as specified in other provisions of this contract. All materials produced or required to be delivered under this contract become and remain the property of the Government.

§ 1–7.304–9 Reports of work.

REPORTS OF WORK

(a) The Contractor shall submit separate monthly progress reports of all work accomplished during each month of contract performance. Reports shall be in narrative form, and brief and informal in content. Monthly reports shall include:

(i) A quantitative description of overall progress;

(ii) An indication of any current problems which may impede performance, and proposed corrective action; and

(iii) A discussion of the work to be performed during the next monthly reporting period.

Monthly reports shall be submitted in a reproducible copy plus the number of copies specified in the Schedule.

(b) The Contractor shall submit separate quarterly reports of all work accomplished during each 3 month period of contract performance. In addition to factual data, these reports shall include a separate analysis section which interprets the results obtained, recommends further action, and relates occurrences to the ultimate objectives of the contract work. Sufficient diagrams, sketches, curves, photographs, and drawings shall be included to convey the intended meaning. Quarterly reports shall be submitted in a reproducible copy plus the number of copies specified in the Schedule.

(c) The Contractor shall submit a final report which documents and summarizes the results of the entire contract work, including recommendations and conclusions based on the experience and results obtained. The final report shall include tables, graphs, diagrams, curves, sketches, photographs, and drawings in sufficient detail to comprehensively explain the results achieved under the contract. The final report shall be submitted in a reproducible copy plus the number of copies specified in the Schedule.

A new Subpart 1–7.4 is added which reads as follows:

Subpart 1–7.4—Cost-Reimbursement Type Research and Development Contracts

§ 1–7.400 Scope of subpart.

This subpart sets forth contract clauses for use in cost-reimbursement type research and development contracts.

§ 1–7.401 Applicability.

As used throughout this subpart, the term "cost-reimbursement type research and development contract" means any contract (other than a letter contract, notice of award, or modification not effecting new procurement) which is (a) entered into on a cost, cost-sharing, or cost-plus-a-fee basis, and (b) is for experimental, developmental, or research work. Unless clearly inappropriate, these clauses may also be used in other types of nonpersonal services contracts; e.g., studies, surveys, and demonstrations in socio-economic areas, except for (a) construction, (b) architect-engineer services, and (c) those subject to the Service Contract Act of 1965, as amended.

§ 1–7.402 Required clauses.

The clauses set forth in this § 1–7.402 shall be inserted, as required, in all cost-reimbursement type research and development contracts.

§ 1–7.402–1 Definitions.

Insert the clause set forth in § 1–7.102–1. Additional definitions may be included provided they are not inconsistent with the clause or the provisions of these regulations.

§ 1–7.402–2 Limitation of cost or funds.

(a) Insert the clause set forth in § 1–7.202–3(a) in all fully funded cost-reimbursement type research and development contracts which do not provide for cost sharing. The clause is equally applicable to contracts not providing for the payment of a fee, and, if desired, may be altered to delete the words "exclusive of fee" wherever they appear.

(b) Insert the following clause in fully funded cost-reimbursement type research and development contracts which provide for cost sharing. The contract schedule shall include a cost-sharing formula agreed upon by the contracting officer and the contractor. The formula shall provide for the ratio of cost-sharing for both the originally established estimated cost and any increase pursuant to paragraph (b) of the clause.

LIMITATION OF COST (COST-SHARING)

(a) It is estimated that the cost to the Government for the performance of this contract (exclusive of any fee) will not exceed the estimated cost to the Government set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost to the Government plus the share of the cost of performance agreed to be borne by the Contractor, as set forth in the Schedule. If, at any time, the Contractor has reason to believe that the costs which he expects to be incurred in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated total cost to the Government and to the Contractor then set forth in the Schedule, or if, at any time, the Contractor has reason to believe that the total cost for the performance of this contract (exclusive of any fee) will be greater or substantially less than the then estimated total cost thereof, the Contractor shall notify the Contracting Officer in writing to that effect, giving his revised estimate of such total cost for the performance of this contract.

(b) Except as required by other provisions of this contract, specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the estimated cost to the Government set forth in the Schedule, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the estimated total cost set forth in the Schedule, unless and until the Contracting Officer shall have notified the Contractor in writing that such estimated total cost has been increased and shall have specified in such notice a revised estimated total cost which shall thereupon constitute the estimated total cost of performance of this contract. The increase in such estimated total cost shall be allocated in accordance with the formula set forth in the Schedule governing such increases. No notice, communication, or representation in any other form or from any person other than the Contracting Officer shall affect the estimated cost to the Government of this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the estimated cost

to the Government set forth in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of terminaton. When and to the extent that the estimated total cost set forth in the Schedule has been increased, any costs incurred by the Contractor in excess of the estimated total cost prior to such increase shall be allowable to the same extent and in the same percentage as if such costs had been incurred after the increase; unless the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(c) Change orders issued pursuant to the Changes clause of this Contract shall not be considered an authorization to the Contractor to exceed the estimated cost to the Government set forth in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the estimated cost.

(d) In the event this contract is terminated or the estimated cost not increased, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(c) Insert the clause set forth in § 1–7.202–3(b) in cost-reimbursement type research and development contracts which are to be incrementally funded and which do not provide for cost-sharing.

(d) Insert the following clause in cost-reimbursement type research and development contracts which are to be incrementally funded and which provide for cost-sharing. The contract schedule shall include a cost sharing formula agreed upon by the contracting officer and the contractor. The formula shall provide for the ratio of cost-sharing for both the originally established estimated cost and any increase pursuant to paragraph (b) of the clause.

LIMITATION OF FUNDS (COST-SHARING)

(a) It is estimated that the cost to the Government for the performance of this contract will not exceed the estimated cost to the Government set forth in the Schedule, and the Contractor agrees to use his best efforts to perform the work specified in the Schedule and all obligations under this contract within such estimated cost to the Government plus the share of the cost of performance agreed to be borne by the Contractor, as set forth in the Schedule.

(b) The amount presently available for payment by the Government and allotted to this contract, the items covered thereby, the Government's share of the cost thereof, and the period of performance which it is estimated the allotted amount will cover, are specified in the Schedule. It is contemplated that from time to time additional funds will be allotted to this contract up to the full estimated cost to the Government set forth in the Schedule, exclusive of any fixed fee. The Contractor agrees to perform or have performed work on this contract up to the point at which the total amount paid and payable by the Government pursuant to the terms of this contract approximates but does not exceed the total amount actually allotted by the Government to the contract.

(c) If at any time the Contractor has reason to believe that the costs which he expects to incur in the performance of this contract in the next succeeding 60 days, when added to all costs previously incurred, will exceed 75 percent of the total of the amount then allotted to the contract by the Government plus the Contractor's corresponding share, the Contractor shall notify the Contracting Officer in writing to that effect. The notice shall state the estimated amount of additional funds required to continue performance for the period set forth in the Schedule. Sixty days prior to the end of the period specified in the Schedule the Contractor will advise the Contracting Officer in writing as to the estimated amount of additional funds, if any, that will be required for the timely performance of the work under the contract or for such further period as may be specified in the Schedule or otherwise agreed to by the parties. If, after such notification, additional funds are not allotted by the end of the period set forth in the Schedule or an agreed date substituted therefor, the Contracting Officer will, upon written request by the Contractor, terminate this contract pursuant to the provisions of the Termination clause on such date. If the Contractor, in the exercise of his reasonable judgment, estimates that the funds available will allow him to continue to discharge his obligations hereunder for a period extending beyond such date, he shall specify the later date in his request, and the Contracting Officer, in his discretion, may terminate on that later date.

(d) Except as required by other provisions of this contract specifically citing and stated to be an exception from this clause, the Government shall not be obligated to reimburse the Contractor for costs incurred in excess of the amount from time to time allotted by the Government to the contract, and the Contractor shall not be obligated to continue performance under the contract (including actions under the Termination clause) or otherwise to incur costs in excess of the total of the amount then allotted to the contract by the Government plus the Contractor's corresponding share, unless and until the Contracting Officer has notified the Contractor in writing that the amount allotted by the Government has been increased and has specified in such notice an increased amount constituting the total amount then allotted by the Government to the contract. To the extent the total of the amount allotted by the Government plus the Contractor's corresponding share exceeds the estimated cost set forth in the Schedule, such estimated cost shall be correspondingly increased. Any increase in such estimated cost shall be allocated in accordance with the formula set forth in the Schedule governing such increases. No notice, communication, or representation in any other form or from any person other than the Contracting Officer shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government shall not be obligated to reimburse the Contractor for any costs in excess of the total amount then allotted by the Government to the contract, whether those excess costs were incurred during the course of the contract or as a result of termination. When and to the extent that the amount allotted by the Government to the contract has been increased, any costs incurred by the Contractor in excess of the total of the amount previously allotted by the Government plus the Contractor's corresponding share shall be allowable to the same extent and in the same percentage as if such costs had been incurred after such increase in the amount allotted; *unless* the Contracting Officer issues a termination or other notice and directs that the increase is solely for the purpose of covering termination or other specified expenses.

(e) Change orders issued pursuant to the Changes clause of this contract shall not be considered an authorization to the Contractor to exceed the amount allotted by the Government in the Schedule in the absence of a statement in the change order, or other contract modification, increasing the amount allotted.

(f) Nothing in this clause shall affect the right of the Government to terminate this contract. In the event this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract based upon the share of costs incurred by each.

(g) In the event that sufficient funds are not allotted to this contract by the Government to allow completion of the work contemplated by this contract, the Contractor shall be entitled to that percentage of the fee set fortn in the Schedule equivalent to the percentage of completion of the work contemplated by this contract.

(e) In accordance with agency procedures the percentages and time periods stated in the foregoing clauses may be varied respectively between 75 percent and 85 percent and 30 to 90 days.

§ 1–7.402–3 Allowable cost, fee, and payment.

(a) Insert the clause set forth in § 1–7.202–4 in all cost-reimbursement type contracts which provide for payment of a fixed fee.

(b) In the case of contracts, including cost-sharing contracts, without fee:

(1) Change the title of the clause prescribed in (a), above, to "Allowable Cost and Payment";

(2) Insert the following sentence in lieu of the second sentence of paragraph (c) of the clause prescribed in (a), above, except that in contracts not providing for cost-sharing, the parenthetical references to the Government's share shall be deleted:

After payment of an amount equal to 80 percent of (the Government's share of) the total estimated cost of performance of this contract set forth in the Schedule, the Contracting Officer may withhold further payment on account of allowable cost until a reserve shall have been set aside in an amount which he considers necessary to protect the interests of the Government, but such reserve shall not exceed 1 percent of (the Government's share of) such total estimated cost or $100,000, whichever is less.

(3) Delete "and any part of the fixed fee" from paragraph (e) of the clause prescribed in (a), above.

(4) In contracts without fee with nonprofit institutions the amount $10,000 may be substituted for $100,000 in the sentence set forth in § 1–7.402–3(b)(2), above.

(5) In contracts with educational institutions substitute Subpart 1–15.3 in paragraph (a)(1)(i) of the clause prescribed in § 1–7.402–3(a), above.

(6) In contracts with State and local governments substitute Subpart 1–15.7 in paragraph (a)(1)(i) of the clause prescribed in § 1–7.402–3(a), above.

§ 1–7.402–4 Standards of work.

Insert the clause set forth in § 1–7.302–3.

§ 1–7.402–5 Inspection and correction of defects.

(a) The following clause shall be used where the primary contract objective is the delivery of end items other than designs, drawings, or reports, except where the contracting officer determines that the use of such clause is impracticable. Where this clause is not used, the clause in § 1–7.402–5(c) shall be used.

INSPECTION AND CORRECTION OF DEFECTS

(a) All work under this contract shall be subject to inspection and test by the Government (to the extent practicable) at all times (including the period of performance) and places, and in any event prior to acceptance. The Contractor shall provide and maintain an inspection system acceptable to the Government covering the work hereunder. The Government, through any authorized representative, may inspect the plant or plants of the Contractor or of any of his subcontractors engaged in the performance of this contract. If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor the Contractor shall provide and shall require subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. All inspections and tests by the Government shall be performed in such a manner as will not unduly delay the work. Except as otherwise provided in this contract, final inspection and acceptance shall be made at the place of delivery as promptly as practicable after delivery and shall be deemed to have been made no later than 90 days after the date of such delivery, if acceptance has not been made earlier within such period.

(b) At any time during performance of this contract, but not later than 6 months (or such other time as may be provided in the Schedule) after acceptance of all of the end items (other than designs, drawings, or reports) to be delivered under this contract, the Government may require the Contractor to remedy by correction or replacement, as directed by the Contracting Officer, any failure by the Contractor to comply with the requirements of this contract. Any time devoted to such correction or replacement shall not be included in the computation of the period of time specified in the preceding sentence, except as provided in (d), below. Except as otherwise provided in paragraph (c), below, the allowability of the cost of any such replacement or correction shall be determined as provided in the clause of this contract entitled "Allowable Cost, Fixed Fee, and Payment," but no additional fee shall be payable with respect thereto. Corrected articles shall not be tendered again for acceptance unless the former tender and the requirement of correction is disclosed. If the Contractor fails to proceed with reasonable promptness to perform such replacement or correction, the Government (1) may by contract or otherwise perform such replacement or correction and charge to the Contractor any increased cost occasioned the Government thereby, or may reduce any fixed fee payable under the contract (or require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (2) in the case of articles not delivered, may require the delivery of such articles, and shall have the right to reduce any fixed fee payable under this contract (or to require repayment of any fixed fee theretofore paid) in such amount as may be equitable under the circumstances, or (3) may terminate this contract for default. Failure to agree to the amount of any such increased cost to be charged to the Contractor or to such reduction in, or repayment of, the fixed fee, shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) Notwithstanding the provisions of paragraph (b), above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if such failure is due to fraud, lack of good faith, or willful misconduct on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of (1) all or substantially all of the Contractor's business, or (2) all or substantially all of the Contractor's operations at any one plant or separate location in which this contract is being performed, or (3) a separate and complete major industrial operation in connection with the performance of this contract. The Government may at any time also require the Contractor to remedy by correction or replacement, without cost to the Government, any such failure caused by one or more individual employees selected or retained by the Contractor after any such supervisory personnel has reasonable grounds to believe that any such employee is habitually careless or otherwise unqualified.

(d) The provisions of paragraph (b), above, shall apply to any corrected or replacement end item or component until 6 months after its acceptance.

(e) The Contractor shall make his records of all inspection work available to the Government during the performance of this contract and for such longer period as may be specified in this contract.

(f) Except as provided in this clause and as may be provided in the Schedule, the Contractor shall have no obligation or liability to correct or replace articles which at the time of delivery are defective in material or workmanship or otherwise not in conformity with the requirements of this contract.

(g) Except as otherwise provided in the Schedule, the Contractor's obligation to correct or replace Government-furnished property (which is property in the possession of or acquired directly by the Government and delivered or otherwise made available to the Contractor) shall be governed by the provisions of the clause of this contract entitled "Government Property."

(b) Insert the following paragraph in lieu of paragraph (b) of the clause set forth in (a), above, when the contract does not provide for the payment of a fee:

(b) At any time during performance of this contract, but not later than 6 months (or such other period as may be provided in the Schedule) after acceptance of all of the end items (other than designs, drawings, or reports) to be delivered under this contract, the Government may require the Contractor to remedy by correction or replacement, as directed by the Contracting Officer, any failure by the Contractor to comply with the requirements of this contract. Any time devoted to such correction or replacement shall not be included in the computation of the period of time specified in the preceding sentence except as provided in (d), below. Except as provided in paragraph (c), below, the allowability of the cost of any such replacement or correction shall be as provided in the clause of this contract entitled "Allowable Cost and Payment." Corrected articles shall not be tendered again for acceptance unless the former tender and the requirement of correction is disclosed. If the Contractor fails to proceed with reasonable promptness to perform such replacement or correction, the Government (1) may, by contract or otherwise, perform such replacement or correction and charge to the Contractor any increased cost occasioned by the Government thereby, or (2) in the case of articles not delivered, may require the delivery of such articles, or (3) may terminate this contract for default. Failure to agree to the amount of any such increased cost to be charged to the Contractor shall be deemed to be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) The following clause shall be inserted in all cost-reimbursement type research and development contracts where the clause set forth in (a), above, is not used:

INSPECTION

The Government, through any authorized representatives, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection, or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

§ 1–7.402–6 Assignment of claims.

Insert the clause set forth in § 1–30.703 under the conditions contained therein.

§ 1–7.402–7 Examination of records by Comptroller General.

Insert the clause set forth in § 1–7.103–3.

§ 1–7.402–8 Subcontracts.

(a) Insert the following clause in all cost-reimbursement type research and development contracts:

SUBCONTRACTS

(a) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract which (1) is cost-reimbursement type, time and materials, or labor-hour, or (2) is fixed-price type and exceeds in dollar amount either $25,000 or 5 percent of the total estimated cost of this contract, or (3) provides for the fabrication, purchase, rental, installation, or other acquisition of special test equipment having a value in excess of $1,000 or of any items of industrial facilities, or (4) has experimental, developmental, or research work as one of its purposes.

(b) In the case of a proposed subcontract which is (1) cost-reimbursement type, time and materials, or labor-hour which would involve an estimated amount in excess of $10,000, including any fee, (2) is proposed to exceed $100,000, or (3) is one of a number of subcontracts under this contract with a single subcontractor for the same or related supplies or services which, in the aggregate are expected to exceed $100,000, the advance notification required by (a), above, shall include:

(1) A description of the supplies or services to be called for by the subcontract;

(2) Identification of the proposed subcontractor and an explanation of why and

how the proposed subcontractor was selected, including the degree of competition obtained:

(3) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(4) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data when such data and certificate are required by other provisions of this contract to be obtained from the subcontractor;

(5) Identification of the type of subcontract to be used;

(6) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the Contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not required, and, if it was not required in the case of any price negotiation in excess of $100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the Contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the Contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain this difference;

(7) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee/profit plan identifying each critical performance element, management decisions used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time; and

(8) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract to be obtained from the subcontractor.

(c) The Contractor shall obtain the written consent of the Contracting Officer prior to placing any subcontract for which advance notification is required under (a) above. The Contracting Officer may, in his discretion, ratify in writing any such subcontract; such action shall constitute the consent of the Contracting Officer as required by this paragraph (c).

(d) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

(e) The Contracting Officer may, in his discretion, specifically approve in writing any of the provisions of a subcontract. However, such approval or the consent of the Contracting Officer obtained as required by this clause shall not be construed to constitute a determination of the allowability of any cost under this contract, unless such approval specifically provides that it constitutes a determination of the allowability of such cost.

(f) The Contractor shall give the Contracting Officer immediate notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any subcontractor or vendor which in the opinion of the Contractor, may result in litigation, related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(g) Notwithstanding (c) above, the Contractor may enter into subcontracts within (i) or (ii) of (a) above, without the consent of the Contracting Officer, if the Contracting Officer has approved in writing the Contractor's procurement system and the subcontract is within the scope of such approval. (This subparagraph (g) however, shall not be applicable to those subcontracts subject to subparagraph (j) below, if any.)

(h) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments on the fixed-price types of subcontracts of those subcontractors which are small business concerns, in conformity with the standards for customary progress payments stated in the Federal Procurement Regulations, Subpart 1-30.5, as in effect on the date of this contract. The Contractor further agrees that the need for such progress payments will not be considered as a handicap or adverse factor in the award of subcontracts.

(b) The amounts "$25,000" and "$1,000" in paragraph (a) of the clause set forth in § 1-7.402-8(a) may be varied in accordance with agency procedures to reflect lower dollar values.

(c) In exceptional circumstances, certain subcontracts or classes of subcontracts may be selected during negotiation for extraordinary Government surveillance. In such circumstances, insert the following paragraph (j):

(j) Notwithstanding approval of the procurement system, the Contractor shall not enter into certain subcontracts or classes of subcontracts set forth elsewhere in this contract without the prior written consent of the Contracting Officer.

§ 1-7.402-9 Utilization of small business concerns.

Insert the clause set forth in § 1-1.710-3(a) under the conditions and in the manner prescribed therein.

§ 1-7.402-10 Termination for default or convenience of the Government.

(a) Insert the clause set forth in § 1-8.702 in accordance with the conditions prescribed in §§ 1-8.700-2(a)(3) and 1-8.700-2(b)(2).

(b) Insert the clause set forth in § 1-8.704-1 in accordance with the conditions prescribed in § 1-8.700-2(a)(4).

§ 1-7.402-11 Disputes.

Insert the clause set forth in § 1-7.102-12.

§ 1-7.402-12 [Reserved]

§ 1-7.402-13 Buy American Act.

Insert the clause set forth in § 1-6.104-5 under the conditions prescribed therein.

§ 1-7.402-14 Convict labor.

Insert the clause set forth in § 1-12.204 under the conditions prescribed in § 1-12.203.

§ 1-7.402-15 Walsh-Healey Public Contracts Act.

Insert the clause set forth in § 1-12.605 under the conditions prescribed in § 1-12.602.

§ 1-7.402-16 Contract Work Hours and Safety Standards Act—overtime compensation.

Insert the clause set forth in § 1-12.303 under the conditions prescribed in § 1-12.302.

§ 1-7.402-17 Equal opportunity.

Insert the clause set forth in § 1-12.803-2 under the conditions prescribed in § 1-12.803-1.

§ 1-7.402-18 Officials not to benefit.

Insert the clause set forth in § 1-7.102-17.

§ 1-7.402-19 Covenant against contingent fees.

Insert the clause set forth in § 1-1.503 under the conditions prescribed in § 1-1.501.

§ 1-7.402-20 [Reserved]

§ 1-7.402-21 Notice and assistance regarding patent and copyright infringement.

Insert the clause set forth in § 1-7.103-4.

§ 1-7.402-22 Patents.

Insert the appropriate clause set forth in § 1-9.107 under the conditions contained in Subpart 1-9.1.

§ 1-7.402-23 [Reserved]

§ 1-7.402-24 [Reserved]

§ 1-7.402-25 Government property.

(a) Insert the clause set forth in § 1-7.203-21(a) when the Government is to furnish, or the contractor is to acquire, Government property. In addition, paragraph (d) may be modified to provide that the Government will maintain the property records of Government property furnished to the contractor.

(b) Insert the following clause if the contract is with an educational or nonprofit institution.

GOVERNMENT PROPERTY
(COST-REIMBURSEMENT, NONPROFIT)

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property described as Government-furnished property in this contract, together with such related data and information as the Contractor may request and as may reasonably be required for the intended use of such property (hereinafter referred to as "Government-furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule of this contract or, if not so stated, in sufficient time to enable

the Contractor to meet such delivery or performance dates. In the event that Government-furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, upon timely written request made by the Contractor, make a determination of the delay, if any, occasioned the Contractor and shall equitably adjust the estimated cost, or delivery or performance dates, or both, and any other contractual provisions affected by any such delay. In the event that the Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt thereof, notify the Contracting Officer of such fact and, as directed by the Contracting Officer, either (i) return such property, or (ii) effect repairs or modifications. Upon completion of (i) or (ii) above, the Contracting Officer upon timely written request of the Contractor shall equitably adjust the estimated cost, or delivery or performance dates, or both, and any other contractual provision affected by the return, disposition, repair or modification. The foregoing provisions for adjustment are exclusive and the Government shall not be liable for suit for breach of contract by reason of any delay in delivery of Government-furnished property or delivery of such property in a condition not suitable for its intended use.

(b) (1) By notice in writing, the Contracting Officer may (i) decrease the property furnished or to be furnished by the Government under this contract, or (ii) substitute other Government-owned property for property to be furnished by the Government, or to be acquired by the Contractor for the Government, under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct with respect to the removal, shipping, and disposal of property covered by such notice.

(2) In the event of any decrease in or substitution of property pursuant to subparagraph (1) above, or any withdrawal of authority to use property provided under any other contract or lease, which property the Government had agreed in the Schedule to make available for the performance of this contract, the Contracting Officer, upon the written request of the Contractor (or if the substitution of property causes a decrease in the cost of performance, on his own initiative), shall equitably adjust such contractual provisions as may be affected by the decrease, substitution or withdrawal, in accordance with the procedures provided for in the "Changes" clause of this contract.

(c) (1) Title to all property furnished by the Government shall remain in the Government.

(2) Notwithstanding subparagraph (1) above, title to equipment purchased with funds available for research having an acquisition cost of less than $1,000 shall vest in the Contractor upon acquisition or as soon thereafter as feasible provided that the Contractor shall have obtained approval of the Contracting Officer prior to acquisition of such property.

(3) Title to equipment having an acquisition cost of $1,000 or more, purchased with funds available for the conduct of research, shall vest as set forth in the contract.

(4) If title to equipment is vested pursuant to (2) or (3) above, the Contractor agrees that no charge will be made to the Government for any depreciation, amortization, or use charge with respect to such equipment under any existing or future Government contract or subcontract thereunder.

(5) The Contractor shall furnish the Contracting Officer a list of all equipment acquired under subparagraph (2) above within ten (10) days following the end of the calendar quarter during which such equipment was received.

(6) All Government furnished property, together with all property acquired by the Contractor, title to which vests in the Government under this clause, is hereinafter collectively referred to as "Government property."

(7) Title to Government property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government property, or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.

(8) Title to all property purchased by the Contractor, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this contract and which under the provisions of this contract is to vest in the Government, shall pass to and vest in the Government upon delivery of such property by the vendor. Title to other property, the cost of which is to be reimbursed to the Contractor under this contract and which under the provisions of this contract is to vest in the Government, shall pass to and vest in the Government upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of processing or use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the Government, whichever first occurs.

(d) The Contractor shall be directly responsible for and accountable for all Government property provided under this contract. The Contractor shall establish and maintain a system to control, protect, preserve, and maintain all Government property. This system shall, upon request by the Contracting Officer, be submitted for review and, if satisfactory, approved in writing by the Contracting Officer. The Contractor shall maintain and make available such records as are required by the approved system and must account for all Government property until relieved of responsibility therefor in accordance with the written instructions of by the Contractor Officer, the Contractor shall identify Government property by marking, tagging, or segregating in such manner as to clearly indicate its ownership by the Government.

(e) The Government property shall, unless otherwise provided herein or approved by the Contracting Officer, be used only for the performance of this contract.

(f) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the utilization, maintenance, repair, protection and preservation of Government property so as to assure its full availability and usefulness for the performance of this contract. The Contractor shall take all reasonable steps to comply with all appropriate directions or instructions which the Contracting Officer may prescribe as reasonably necessary for the protection of Government property.

(g) (1) The Contractor shall not be liable for any loss of or damage to the Government property, or for expenses incidental to such loss or damage, except that the Contractor shall be responsible for any such loss or damage (including expenses incidental thereto):

(i) Which results from willful misconduct or lack of good faith on the part of any of the Contractor's directors or officers, or on the part of any of his managers, superintendents, or other equivalent representatives, who has supervision or direction of all or substantially all of the Contractor's business, or all or substantially all of the Contractor's operations at any one plant, laboratory, or separate location in which this contract is being performed;

(ii) Which results from a failure on the part of the Contractor, due to the willful misconduct or lack of good faith on the part of any of his directors, officers, or other representatives mentioned in (i) above, (A) to maintain and administer, in accordance with sound business practice, the program for utilization, maintenance, repair, protection and preservation of Government property as required by (f) above, or to take all reasonable steps to comply with any appropriate written directions of the Contracting Officer under (f) above, or (B) to establish, maintain and administer, in accordance with (d) above, a system for control of Government property;

(iii) For which the Contractor is otherwise responsible under the express terms of the clause or clauses designated in the schedule;

(iv) Which results from a risk expressly required to be insured under some other provisions of this contract, but only to the extent of the insurance so required to be procured and maintained, or to the extent of insurance actually procured and maintained, whichever is greater; or

(v) Which results from a risk which is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement.

Any failure of the Contractor to act as provided in subparagraph (ii) above, shall be conclusively presumed to be a failure resulting from willful misconduct, or lack of good faith on the part of such directors, officers, or other representatives mentioned in subparagraph (i) above, if the Contractor is notified by the Contracting Officer by registered or certified mail, addressed to one of such directors, officers, or other representatives, of the Government's disapproval, withdrawal of approval, or nonacceptance of the Contractor's program or system. In such event, it shall be presumed that any loss of or damage to Government property resulted from such failure. The Contractor shall be liable for such loss or damage unless he can establish by clear and convincing evidence that such loss or damage did not result from his failure to maintain an approved program or system or occurred during such time as an approved program or system for control of Government property was maintained.

If more than one of the above exceptions shall be applicable in any case, the Contractor's liability under any one exception shall not be limited by any other exception.

(2) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance, or any provision for a reserve, covering the risk of loss of or damage to the Government property, except to the extent that the Government may have required the Contractor to carry such insurance under any other provision of this contract.

(3) Upon the happening of loss or destruction of or damage to the Government property, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the loss and salvage organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the loss and salvage organization so designated (unless the Contracting Officer has designated that no such organization be employed), shall take all reasonable steps to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the Government property in the best possible order, and furnish to the Contracting Officer a statement of:

(i) The lost, destroyed, and damaged Government property;

(ii) The time and origin of the loss, destruction, or damage;

(iii) All known interests in commingled property of which the Government property is a part; and

(iv) The insurance, if any, covering any part of or interest in such commingled property. The Contractor shall make repairs and renovations of the damaged Government property or take such other action as the Contracting Officer directs.

(4) In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of or damage to the Government property, he shall use the proceeds to repair, renovate or replace the Government property involved, or shall credit such proceeds against the cost of the work covered by the contract, or shall otherwise reimburse the Government, as directed by the Contracting Officer. The Contractor shall do nothing to prejudice the Government's right to recover against third parties for any such loss, destruction, or damage, and upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including assistance in the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(h) The Government, and any persons designated by it, shall at all reasonable times have access to the premises wherein any of the Government property is located, for the purpose of inspecting the Government property.

(i) Upon completion or expiration of this contract, or at such earlier dates as may be fixed by the Contracting Officer, any Government property which has not been consumed in the performance of this contract, or which has not been disposed of as provided for elsewhere in this clause, or for which the Contractor has not otherwise been relieved of responsibility, shall be disposed of in the same manner, and subject to the same procedures, as is provided in paragraph (g) of the clause of this contract entitled "Termination for the Convenience of the Government" with respect to termination inventory.

The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract, or shall otherwise be credited to the cost of the work covered by this contract, or shall be paid in such other manner as the Contracting Officer may direct. Pending final disposition of such property, the Contractor agrees to take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation thereof.

(j) If the Contractor determines any Government property to be in excess of his needs under this contract, such Government property shall be disposed of in the same manner as provided by paragraph (i) above, except that the Government may abandon any Government property in place and thereupon all obligations of the Government regarding such abandoned property shall cease. Unless otherwise provided herein, the Government has no obligation to the Contractor with regard to restoration or rehabilitation of the Contractor's premises, neither in case of abandonment, disposition pursuant to paragraph (j) above, nor otherwise, except for restoration or rehabilitation costs caused by removal of Government property pursuant to paragraph (b) above.

(k) All communications issued pursuant to this clause shall be in writing.

(c) Paragraph (d) of the clause set forth in § 1–7.402–25(b) may be modified to provide that the Government will maintain the property records of Government property furnished to the contractor.

§ 1–7.402–26 Insurance—liability to third persons.

(a) Insert the clause set forth in § 1–7.202–22 under the conditions prescribed therein. If the contractor claims partial immunity from tort liability as a State agency or as a charitable institution (as where work may be performed under the contract in a place or under conditions where the contractor is not immune from tort liability), the following may be added to the clause set forth in § 1–7.202–22:

(e) Notwithstanding paragraphs (a) and (c) of this clause, (1) the Government does not assume any liability to third persons, nor will the Government reimburse the Contractor for his liability to third persons, with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract hereunder, and (2) the Contractor need not procure or maintain insurance coverage as provided in paragraph (a) of this clause; *Provided*, the Contractor may obtain any insurance coverage he deems necessary subject to approval by the Contracting Officer as to form, amount, and duration, in which event the Contractor shall be reimbursed (i) for the cost of such insurance and (ii) to the extent provided in paragraph (c) above, for liabilities to third persons for which the Contractor has obtained insurance coverage as provided in this paragraph, but for which such coverage is insufficient in amount.

(b) If the contractor claims total immunity from tort liability as a State agency or as a charitable institution, the following clause may be used in lieu of the clause in § 1–7.202–22.

LIABILITY TO THIRD PERSONS

(a) The Government does not assume any liability to third persons, nor will the Government reimburse the Contractor for his liability to third persons, with respect to loss due to death, bodily injury, or damage to property resulting in any way from the performance of this contract or any subcontract hereunder.

(b) The Contractor shall give the Government or its representatives immediate notice of any suit or action filed, or prompt notice of any claim made, against the Contractor arising out of the performance of this contract, the cost and expense of which may be reimbursable to the Contractor under the provisions of this contract. The Contractor shall furnish immediately to the Government copies of all pertinent papers received by the Contractor. The Contractor shall, if required by the Government, authorize representatives of the Government to settle or defend any such claim and to represent the Contractor in or take charge of any litigation in connection therewith. The Contractor may, at his own expense, be associated with the representatives of the Government in the settlement or defense of any such claim or litigation.

§ 1–7.402–27 Utilization of labor surplus area concerns.

Insert the clause set forth in § 1–1.805–3(a) under the conditions prescribed therein.

§ 1–7.402–28 Payment for overtime premiums.

Insert the clause set forth in § 1–7.202–29 when payment for overtime premiums is to be made in accordance with § 1–12.102.

§ 1–7.402–29 Competition in subcontracting.

Insert the clause set forth in § 1–7.202–30.

§ 1–7.402–30 Audit and records.

See § 1–3.814–2 for audit and records requirements for cost-reimbursement type contracts. Agencies may use the clause set forth in § 1–3.814–2(a) to satisfy these requirements. However, agency audit and records clauses may be used provided that they give the contracting agency, as a minimum, substantially the same rights as provided by the clause set forth in § 1–3.814–2(a).

§ 1–7.402–31 Price reduction for defective cost or pricing data.

Insert the clause set forth in § 1–3.814–1(a) under the conditions prescribed therein.

§ 1–7.402–32 Subcontractor cost and pricing data.

Insert the appropriate clause set forth in § 1–3.814–3 under the conditions prescribed therein.

§ 1–7.402–33 Utilization of minority business enterprises.

Insert the clause set forth in § 1–1.1310–2(a) under the conditions prescribed therein.

§ 1–7.402–34 Listing of employment openings.

Insert the clause set forth in § 1–12.1102–2 under the conditions prescribed therein.

§ 1–7.402–35 Payment of interest on contractors' claims.

Insert the clause set forth in § 1–1.322 (b) under the conditions prescribed therein.

§ 1–7.402–36 Employment of the handicapped.

Insert the clause set forth in § 1–12.1304–1 under the conditions contained in the section.

§ 1–7.403 Clauses to be used when applicable.

§ 1–7.403–1 Clauses for cost-reimbursement type research and development contracts involving construction.

(a) Insert the clauses set forth in § 1–18.703 in cost-reimbursement type research and development contracts under the conditions prescribed in § 1–18.703. The clauses set forth in § 1–18.703–1 are listed for convenience as follows:

Davis-Bacon Act (40 U.S.C. 276a–276a–7).
Contract Work Hours and Safety Standards Act—Overtime Compensation (40 U.S.C. 327–333).
Apprentices and Trainees
Payrolls and Payroll Records
Compliance with Copeland Regulations
Withholding of Funds
Subcontracts

Contract Termination—Debarment Disputes Concerning Labor Standards

(b) Insert the clause set forth in § 1–18.605 under the conditions prescribed in Subpart 1–18.6.

§ 1–7.403–2 [Reserved]

§ 1–7.403–3 [Reserved]

§ 1–7.403–4 [Reserved]

§ 1–7.403–5 Excusable delays.

Insert the clause set forth in § 1–8.708 under the conditions prescribed in § 1–8.700–2(c).

§ 1–7.403–6 [Reserved]

§ 1–7.403–7 [Reserved]

§ 1–7.403–8 [Reserved]

§ 1–7.403–9 Negotiated overhead rates.

Insert the appropriate clause set forth in § 1–3.704 under the conditions prescribed therein.

§ 1–7.403–10 Notice to the Government of labor disputes.

Insert the clause set forth in § 1–7.203–3 under the conditions contained in the section.

§ 1–7.403–11 [Reserved]

§ 1–7.403–12 [Reserved]

§ 1–7.403–13 [Reserved]

§ 1–7.403–14 Make-or-buy program.

Insert the clause set forth in § 1–3.902–3 under the conditions contained therein.

§ 1–7.403–15 [Reserved]

§ 1–7.403–16 [Reserved]

§ 1–7.403–17 [Reserved]

§ 1–7.403–18 [Reserved]

§ 1–7.403–19 [Reserved]

§ 1–7.403–20 Advance payments.

When advance payments are to be made in accordance with agency procedures and Subpart 1–30.4, insert the appropriate provisions as prescribed in § 1–30.414–2.

§ 1–7.403–21 Workmen's compensation insurance (Defense Base Act).

Insert the clause set forth in § 1–10.402 under the conditions prescribed therein.

§ 1–7.403–22 Required source for jewel bearings.

Insert the clause set forth in § 1–1.319 under the conditions prescribed therein.

§ 1–7.403–23 General Services Administration supply sources.

Insert the clause set forth in § 1–7.203–13 under the conditions prescribed in Subpart 1–5.9.

§ 1–7.403–24 Use of interagency motor pool vehicles and related services.

Insert the clause set forth in § 1–7.203–14 under the conditions prescribed in Subpart 1–5.5.

§ 1–7.403–25 Interest.

Insert the clause set forth in § 1–7.203–15 under the conditions prescribed therein.

§ 1–7.403–26 [Reserved]

§ 1–7.403–27 [Reserved]

§ 1–7.403–28 [Reserved]

§ 1–7.403–29 [Reserved]

§ 1–7.403–30 [Reserved]

§ 1–7.403–31 [Reserved]

§ 1–7.403–32 [Reserved]

§ 1–7.403–33 [Reserved]

§ 1–7.403–34 [Reserved]

§ 1–7.403–35 [Reserved]

§ 1–7.403–36 United States products and services (Balance of Payments Program).

Insert the clause set forth in § 1–6.806–4 under the conditions prescribed in Subpart 1–6.8.

§ 1–7.403–37 [Reserved]

§ 1–7.403–38 [Reserved]

§ 1–7.403–39 Care of laboratory animals.

Insert the clause set forth in § 1–7.303–44 under the conditions prescribed therein.

§ 1–7.403–40 [Reserved]

§ 1–7.403–41 [Reserved]

§ 1–7.403–42 [Reserved]

§ 1–7.403–43 [Reserved]

§ 1–7.403–44 [Reserved]

§ 1–7.403–45 [Reserved]

§ 1–7.403–46 [Reserved]

§ 1–7.403–47 [Reserved]

§ 1–7.403–48 [Reserved]

§ 1–7.403–49 [Reserved]

§ 1–7.403–50 Cost accounting standards.

(a) Insert the notice for solicitations set forth in § 1–3.1203(a)(3) in negotiated solicitations under the conditions contained in Subpart 1–3.12.

(b) Insert the contract clause set forth in § 1–3.1204 in negotiated contracts under the conditions contained in Subpart 1–3.12.

§ 1–7.403–51 [Reserved]

§ 1–7.403–52 [Reserved]

§ 1–7.403–53 Small business subcontracting program.

Insert the clause set forth in § 1–1.710–3(b) under the conditions and in the manner prescribed therein.

§ 1–7.403–54 Labor surplus area subcontracting program.

Insert the clause set forth in § 1–1.805–3(b) under the conditions and in the manner prescribed therein.

§ 1–7.403–55 Minority business enterprises subcontracting program.

Insert the clause set forth in § 1–1.1310–2(b) under the conditions and in the manner prescribed therein.

§ 1–7.403–56 [Reserved]

§ 1–7.403–57 [Reserved]

§ 1–7.403–58 Preference for U.S. flag air carriers.

Insert the clause set forth in § 1–1.323–2 under the conditions prescribed therein.

§ 1–7.404 Additional clauses.

The following clauses may be inserted in cost-reimbursement type research and development contracts when it is desired to cover the subject matter thereof.

§ 1–7.404–1 Alterations in contract.

Insert the clause set forth in § 1–7.204–1.

§ 1–7.404–2 Approval of contract.

Insert the clause set forth in § 1–7.204–2.

§ 1–7.404–3 Date of incurrence of costs.

Insert the clause set forth in § 1–7.204–3.

§ 1–7.404–4 Notice regarding late delivery.

Insert the clause set forth in § 1–7.204–4.

§ 1–7.404–5 Changes.

CHANGES

(a) The Contracting Officer may at any time, by a written order, and without notice to the sureties, if any, make changes, within the general scope of this contract, in any one or more of the following:

(i) Drawings, designs, or specifications;

(ii) Method of shipment or packing; and

(iii) Place of inspection, delivery, or acceptance.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for the performance of any part of the work under this contract, whether changed or not changed by any such order, or otherwise affects any other provision of this contract, an equitable adjustment shall be made:

(i) In the estimated cost or delivery schedule, or both;

(ii) In the amount of any fixed fee to be paid to the Contractor; and

(iii) In such other provisions of the contract as may be affected, and the contract shall be modified in writing accordingly.

Any claim by the Contractor for adjustment under this clause must be asserted within thirty (30) days from the date of receipt by the Contractor of the notification of change; *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, except as provided in paragraph (c) below, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(c) Notwithstanding the provisions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allotted for the performance thereof, shall not be increased or deemed to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. Until such modification is made, the Contractor shall not be obligated to continue performance or incur costs beyond the point

established in the clause of this contract entitled "Limitation of Cost" or "Limitation of Funds."

In the foregoing clause, the period of "thirty (30) days" within which any claim for adjustment must be asserted, may be varied in accordance with agency procedures.

§ 1–7.404–6 Key personnel.

Insert the clause set forth in § 1–7.304–6.

§ 1–7.404–7 Disposition of material.

Insert the clause set forth in § 1–7.304–8.

§ 1–7.404–8 Reports of work.

Insert the clause set forth in § 1–7.304–9.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective August 4, 1975, but may be observed earlier.

Dated: April 11, 1975.

DWIGHT A. INK,
Acting Administrator of General Services.

[FR Doc.75-10272 Filed 4-18-75;8:45 am]

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA-PR Temporary Reg. No. 9]

PART 9-9—PATENTS AND COPYRIGHTS

Appendix A—Modification, in Part of ERDA-PR Part 9-9, Patents and Copyrights

Correction

In FR Doc. 75-9962, appearing at page 16848 of the issue for Tuesday, April 15, 1975, a line was inadvertently omitted from paragraph d. appearing in the second and third columns of page 16849. As corrected the paragraph reads as follows:

d. *Approval of University Technology Transfer Programs.* Paragraph (11) of subsection 9(d) of the Federal Nonnuclear Energy R&D Act provides that in waiver determinations, consideration should be given to the extent to which universities have technology transfer capabilities and programs approved by the Administrator. Pending the development of an approval process within ERDA for university capabilities and programs, consideration may be given to the approval of such programs of a university by other government agencies. Although approval by another agency will not meet the statutory requirement of approval by the Administrator, approval by other agencies will be relevant information to be considered by the Administrator.

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION

[Docket RSFC-4]

PART 215—RAILROAD FREIGHT CAR SAFETY STANDARDS

Rail Car Repairs; Amendments

On October 17, 1974, the Federal Railroad Administration (FRA) published in the FEDERAL REGISTER (39 FR 37067) a notice of proposed rulemaking (NPRM) to amend the Railroad Freight Car Safety Standards. FRA proposed to amend § 215.9 of title 49, Code of Federal Regulations by adding a new paragraph (a)(3) which would require a "bad order" or "home shop for repairs" tag or card to be affixed securely to each side of a defective railroad freight car while it is being moved for repair. Section 217.7 was proposed to be amended by adding a new paragraph (b) to provide that a railroad is deemed to know or have notice that a freight car is defective if a "bad order" or "home shop for repairs" tag or card is attached to the car. FRA also proposed to amend § 215.99 (a) and (c) to extend to 48 months the present 36-month maximum interval for lubrication of grease lubricated roller bearings with end caps that rotate and to prescribe more precisely the manner in which these lubrications are to be accomplished.

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments before December 4, 1974.

After considering all of the comments, FRA has decided to adopt the proposed amendments with a number of significant changes. These changes are discussed below.

"Bad Order" and "Home Shop for Repairs" Tags and Cards. Two commenters expressed concern that this proposal would generate a totally unnecessary paperwork burden of approximately nine million forms per year. This statistic is based upon their estimate that each car in the total freight car fleet of 1.7 million cars is placed on a repair track on the average of three times per year and that the proposed rule would generate a paper form each time a car is scheduled for repair and another form when the repair work is completed.

The intent of the proposed rule is to require these tags or cards to be affixed to defective freight cars only when the cars are being moved *to another location* for repair; these cards or tags would *not* be required on defective cars which are "switched" or moved to a repair or "rip" track at the location where they were discovered to be defective. To clarify this intent, the words "to another location" have been added after the word "moved" in § 215.9(a).

Most cars are discovered to be defective at locations where the necessary repairs may be made and movement to another location for repair is not necessary. Consequently, FRA believes that the paper work generated by the "bad order" or "home shop for repair" tag or card requirement will be minimal. Moreover, railroads may further reduce this paperwork by maintaining repair facilities at locations where trains originate and terminate and at prudent intervals along their lines and by thorough inspection of freight cars at these locations to assure that defective freight cars are discovered and repaired.

Several commenters suggested that the proposed rule be amended to specify the information which must be known about each defective car but allow individual railroads sufficient flexibility to develop the particular of compliance in a manner compatible with that in which they are now conducting operations. These commenters argued that the only item of information which should be required to appear on the car itself is the fact that the car is defective and that the remaining information could be stored in a computer or on the papers which accompany the car. One of these commenters cited the procedure in the Association of American Railroads interchange rules whereby "home shop for repairs" may be stenciled on each side of the car and a written notice accompanies the car ticket or waybill. FRA has carefully considered these comments but still believes that it is imperative from the standpoint of safety that defective cars be uniformly identified and the nature of the defects and the restrictions on the movement of these cars be readily ascertainable by anyone handling them. FRA does not object to individual railroads imposing *additional* requirements such as the stenciling of cars "home shop for repairs" and the storing of this information in computers or entering it on papers which accompany the defective cars. FRA believes, however, that safety considerations require that *primary* reliance be placed on "bad order" and "home shop for repairs" cards or tags which are affixed to the defective cars and contain the information listed in § 215.9(a)(3).

One commenter stated that the requirement of § 215.9(a)(2) that the person in charge of the train be notified *in writing* of defective cars is not practical because telephones and radios are often used to convey this information. FRA believes that this written notification is essential to prevent misunderstandings which could have tragic consequences. Moreover, this requirement is already in effect and FRA did not propose to change it in the NPRM. FRA will consider this comment in the development of rules governing operating rules and practices and the use of radio in railroad operations.

One commenter pointed out that its policy has always been not to permit the interchange of cars with "bad order" cards or tags attached and that the proposed rule would provide a complete reversal of this practice. FRA does not agree. Under the proposed rule, a railroad could still refuse to interchange cars with "bad order" tags or cards attached and insist that "home shop for repairs" tags or cards which contain the information prescribed in § 215.9(a)(3) be attached instead.

One commenter stated the requirement that the time of inspection be entered on a "bad order" or "home shop for repairs" tag or card is not practical or necessary. FRA agrees that the location and date of inspection are sufficient and has deleted the "time" requirement.

Roller Bearing Lubrication. One commenter suggested that the references in the proposed amendment of § 215.99(c)

(2) to "Grade B" grease and to "Specification M-917-64" be changed because although they correctly identify the grease now in general use, the grease specifications are constantly being updated and this specification will soon be redesignated. FRA has changed this provision to provide that the grease must meet or exceed the minimum requirements for Grade B grease, Association of American Railroads Specification M-917-64.

In consideration of the foregoing, Part 215 of Title 49 of the Code of Federal Regulations is amended as set forth below.

Effective Date: This amendment is effective May 15, 1975.

(Secs. 202 and 209, 84 Stat. 971, 975 (45 U.S.C. 431 and 438); § 1.49(n) of the regulations of the Office of the Secretary of Transportation 49 CFR 1.49(n)).

Issued in Washington, D.C. on April 14, 1975.

ASAPH H. HALL,
Deputy Administrator.

1. § 215.7 is revised to read as follows:

§ 215.7 Responsibility for defective cars.

(a) Any railroad that knows, has notice, or should have known that a railroad freight car that it operates has any component which is described as defective in this part is responsible for compliance with this section. Subject to § 215.9, each railroad freight car which has a component described as defective in this part must be—

(1) Repaired; or

(2) Removed from service.

(b) For purposes of paragraph (a) of this section, a railroad is deemed to know or have notice that a freight car it operates has a defective component if a card described in § 215.9(a)(3) is attached to the car.

2. § 215.9(a) is amended to read as follows:

§ 215.9 Movement of defective cars for repair.

(a) Except as provided in paragraph (b) of this section, a railroad freight car which has any component described as defective in this part may be moved to another location for repair only after:

(1) A person designated under § 215.15 determines—

(i) That it is safe to move the car; and

(ii) The maximum speed and other restrictions necessary for safely conducting the movement;

(2) The person in charge of the train in which the car is to be moved is notified in writing and informs all other crew members of the presence of the defective car and the maximum speed and other restrictions determined under paragraph (a)(1)(ii) of this section. A copy of the tag or card described in subparagraph (3) may be used to provide written notification; and

(3) A tag or card bearing the words "bad order" or "home shop for repairs" and containing the following information, is securely attached to each side of the car—

(i) Reporting mark and car number;

(ii) Name of inspecting railroad;

(iii) Inspection location and date;

(iv) Nature of defect and movement restrictions;

(v) Destination for shopping or repair; and

(vi) Signature of a person designated under § 215.15.

This tag or card may only be removed from the car by a person designated under § 215.15. A record or copy of each card attached to or removed from a car must be retained for 90 days and, upon request, made available for inspection by FRA inspectors. Each card removed from a car must contain a notation stating the date, location, reason for its removal and the signature of the person who removed it from the car. These recordkeeping requirements have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

* * * * *

3. The chart in paragraph (a) and paragraph (c) of § 215.99 is revised as follows:

§ 215.99 Roller bearings.

(a) * * *

Description of bearing	Size of bearing	Amount of lubricant required	Lubricate bearing within the following number of months before car is operated
Oil lubricated	All	Fill to maximum level	12
Grease lubricated; end caps do not rotate	All	16 oz	18
Grease lubricated; end caps rotate	15 inches	12 oz	48
	11 inches or less	8 oz	48

* * * * *

(c) In the case of a grease lubricated roller bearing, the lubrication must be performed as follows:

(1) Immediately before the application of grease—

(i) Clean the grease fitting to prevent road dirt and foreign material from being forced into the bearings; and

(ii) Test the grease fitting to ensure it has not been damaged; and

(2) Insert the amount of grease prescribed in the chart in paragraph (a), using a properly calibrated dispensing device which is equipped with a strainer and is checked monthly to accurately measure ounces of grease. Grease inserted must meet or exceed the minimum requirements for Grade B grease, Association of American Railroads Specification M-917-64.

* * * * *

[FR Doc.75-10151 Filed 4-18-75;8:45 am]

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

[Docket No. 71-72; Notice 9]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

This notice amends 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, to resolve an unintended ambiguity between paragraphs S4.1.1.11 and S4.1.1.12, and paragraph S4.3.1.1.

Paragraphs S4.1.1.11, S4.1.1.12, and S4.1.1.22 allow photometric conformance of parking lamps, stop lamps, taillamps, turn signal lamps, and backup lamps to be determined by measurement of sums of values within specified groups of test points. Paragraph S4.3.1.1 prohibits vehicle equipment obscuring the photometric output "at any test point" specified in SAE materials unless auxiliary lighting equipment is provided that meets all photometric requirements. Standard No. 108 can thus be interpreted as requiring the addition of auxiliary lighting equipment if, for example, a single test point of a taillamp is obscured by part of the vehicle, even though the taillamp might meet the group requirements of Figure 1. NHTSA is therefore amending paragraph S4.3.1.1 to remove the ambiguity.

In consideration of the foregoing the second sentence of paragraph S4.3.1.1 of 49 CFR 571.108 Motor Vehicle Safety Standard No. 108 is revised to read: "In addition, no part of the vehicle shall prevent a parking lamp, taillamp, stop lamp, turn signal lamp, or backup lamp from meeting its photometric output at any applicable group of test points specified in Figures 1 and 3, or prevent any other lamp from meeting the photometric output at any test point specified in any applicable SAE Standard or Recommended Practice."

Effective date: April 21, 1975. Because the amendment clarifies an ambiguity and creates no additional burden on any person, it is found for good cause shown that an effective date earlier than 180 days after issuance is in the public interest.

(Secs. 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 April 15, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75-10398 Filed 4-18-75;8:45 am]

Title 50—Wildlife and Fisheries

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

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 10—GENERAL PROVISIONS

Law Enforcement District Address Changes

Sections 10.21 and 10.22, Subpart C of Part 10, are amended to show address changes for law enforcement districts resulting from reorganization within the Division of Law Enforcement, United States Fish and Wildlife Service.

Since it merely changes addresses listed in this part the amendment's effect is to change agency procedure and therefore the "notice" requirements of 5 U.S.C. 553(b) are not applicable; in addition, it is not a substantive rule requiring a delayed effective date pursuant to 5 U.S.C. 553(d).

This amendment, therefore, is effective April 21, 1975.

Dated: March 18, 1975.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

In 50 CFR Part 10, Subpart C, §§ 10.21 and 10.22 are revised to read as follows:

§ 10.21 Director.

Mail forwarded to the Director with reference to law enforcement or permits should be addressed:

Director (FWS/LE), Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 19183, Washington, D.C. 20036.

§ 10.22 Law enforcement districts.

Service law enforcement districts and their area of jurisdiction follow. Mail should be addressed: "Special Agent in Charge, Fish and Wildlife Service, U.S. Department of the Interior, (appropriate address below)"

Area of jurisdiction	*Address of district office*
Alaska	813 D St., Anchorage, Alaska 99501 (907, 265–4808).
Idaho, Hawaii, Oregon, and Washington	P.O. Box 3737, Portland, Oreg. 97208 (503, 234–4087).
California and Nevada	Room E2911, 2800 Cottage Way, Sacramento, Calif. 95821 (916, 484–4748).
Colorado, Montana, Utah, and Wyoming	P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225 (303, 234–4612).
Iowa, Kansas, Missouri, Nebraska, North Dakota, and South Dakota.	P.O. Box 1038, Independence, Mo. 64051 (816, 374–6273).
Arizona, New Mexico, Oklahoma, and Texas	P.O. Box 329, Albuquerque, N. Mex. 87103 (505, 766–2091).
Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.	P.O. Box 45, Federal Bldg., Fort Snelling, Twin Cities, Minn. 55111 (612, 725–3530).
Arkansas and Louisiana	Room 403, 546 Carondelett St., New Orleans, La. 70130 (504, 589–2334).
Alabama, Florida, Georgia, Mississippi and Puerto Rico.	P.O. Box 95467, Atlanta, Ga. 30347 (404, 526–4761).
Kentucky, North Carolina, South Carolina, and Tennessee.	P.O. Box 290, Nashville, Tenn. 37202 (615, 749–5532).
Delaware, Maryland, Pennsylvania, Virginia, and West Virginia.	95 Aquahart Rd., Glen Burnie, Md. 21061 (301, 761–8033).
New Jersey and New York	Hanger 11, Room 1–49, John F. Kennedy Airport, Jamaica, N.Y. 11430 (212, 995–8613).
Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont	P.O. Box 34, Boston, Mass. 02101 (617, 223–2988).

[FR Doc.75-10308 Filed 4-18-75; 8:45 am]

proposed rules

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

CONTRIBUTIONS TO PENSION, PROFIT-SHARING, ETC. PLANS COVERING SELF-EMPLOYED INDIVIDUALS AND SHAREHOLDER-EMPLOYEES

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by May 22, 1975. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by May 22, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

Preamble—This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform such regulations to certain provisions of section 2001 of the Employee Retirement Income Security Act of 1974 (88 Stat. 952), relating to contributions to pension, profit-sharing, etc., plans on behalf of self-employed individuals. Such plans which benefit self-employed individuals or owner-employees are often referred to as "H.R. 10 plans" or "Keogh plans."

The proposed amendments also contain comparable provisions relating to such plans which benefit shareholder-employees of electing small business corporations ("subchapter S corporations").

Most of the statutory changes which are reflected in the proposed amendments to the regulations are effective earlier than January 1, 1976. Additional proposed amendments to the regulations, reflecting the remaining statutory changes with respect to these plans, will be published later.

Among the recent statutory amendments reflected in the proposed regulations are the following:

1. Effective for employer taxable years beginning after December 31, 1973, the maximum amount deductible for a taxable year on behalf of a self-employed individual or not includible in gross income of a shareholder-employee has been increased to $7,500 or 15 percent of the employee's earned income (whichever is lower). Previously, the maximum amount deductible for a self-employed individual, or not includible in gross income of a shareholder-employee, was $2,500 or 10 percent of earned income.

2. If a plan provides contributions or benefits for employees who are shareholder-employees or who are sole proprietors or partners, the plan must provide that only the first $100,000 of an employee's compensation for the year is taken into account under the plan. In general, this provision is effective for employer taxable years beginning after December 31, 1975; however, it is also applicable to any employer taxable year beginning after December 31, 1973, for which any contributions were made under the plan which were in excess of the $2,500/10 percent limitation of prior law.

3. Effective for employer taxable years beginning after December 31, 1973, a minimum annual deduction of $750 or 100 percent of the employee's earned income (whichever is less) is available with respect to a self-employed individual covered by an "H.R. 10 plan." However, effective for years beginning after December 31, 1975, section 415 of the Internal Revenue Code of 1954 imposes limitations of general applicability to qualified plans. One of these limitations on qualification is generally that contributions under a defined contribution plan with respect to an individual for a year may not exceed the lesser of $25,000 or 25 percent of the individual's compensation. The proposed regulations take the position that, for years beginning after December 31, 1975, the $750/100 percent minimum deduction provision applicable to "H.R. 10 plans" will be subject to the limitations on qualification set forth in section 415 of the Code.

4. Several amendments of a somewhat technical nature have been made to section 72(m) of the Code, relating to special rules applicable to employee annuities and distributions under employee plans. These amendments, which are reflected in the proposed regulations, have various effective dates.

Proposed amendments to the regulations—In order to conform the Income Tax Regulations (26 CFR Part 1) to the provisions of section 2001 (other than subsections (d) and (f)) of the Employee Retirement Income Security Act of 1974 (88 Stat. 952), such regulations are amended as follows:

PARAGRAPH 1. Section 1.46 is amended by revising section 46(a)(3) and the historical note. These amended provisions read as follows:

§ 1.46 Statutory provisions; amount of credit.

SEC. 46. *Amount of credit*—(a) * * *

(3) *Liability for tax.* For purposes of paragraph (2), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

(A) Section 33 (relating to foreign tax credit),

(B) Section 35 (relating to partially tax-exempt interest), and

(C) Section 37 (relating to retirement income).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 408(e) [sic] (relating to additional tax on income from certain retirement accounts), section 402(e) (relating to tax on lump sum distributions), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations) and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

* * * * * *

[Sec. 46 as added by sec. 2(b) Rev. Act 1962 (76 Stat. 963); as amended by sec. 201(d)(4), Rev. Act 1964 (78 Stat. 32); sec. 1(c), Act of April 8, 1966 (Public Law 89-384, 80 Stat. 102); sec. 3, Act of November 8, 1966 (Public Law 89-800, 80 Stat. 1514); sec. 2(a), Act of December 27, 1967 (Public Law 90-225, 81 Stat. 731); secs. 301(b)(4), 401(e)(1), and 703(b), Tax Reform Act 1969 (83 Stat. 585,

603, and 666); secs. 102 (a)(1), (b), 105(b)(3), 106 (a), (b), (c), 107(a), and 108(a), Rev. Act 1971 (85 Stat. 449, 503, 506, 507); secs. 2001(g)(2)(B), 2002(g)(2), and 2005(c)(4), Employee Retirement Income Security Act 1974 (88 Stat. 957, 968, and 991)]

PAR. 2. Section 1.46–1 is amended by revising paragraph (c) to read as follows:

§ 1.46–1 Determination of amount.

* * * * *

(c) *Liability for tax.* For the purpose of computing the limitation based on amount of tax, section 46(a)(3) defines the liability for tax as the income tax imposed for the taxable year by chapter 1 (including the 2-percent tax on consolidated taxable income imposed with respect to taxable years beginning before January 1, 1964, and the 6-percent additional tax imposed by section 1562(b) with respect to taxable years ending after December 31, 1963), reduced by the sum of the credits allowable under—

(1) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(2) Section 34 (relating to dividends received by individuals before January 1, 1965),

(3) Section 35 (relating to partially tax-exempt interest received by individuals), and

(4) Section 37 (relating to retirement income).

For purposes of this paragraph, the tax imposed by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump-sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to imposition of accumulated earnings tax), section 541 (relating to imposition of personal holding company tax) or section 1378 (relating to tax on certain capital gains of subchapter S corporations) and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses) shall not be considered tax imposed by chapter 1. Thus, the liability for tax and the credit allowed by section 38 for the taxable year are determined before computing any tax imposed by section 56, 72(m)(5)(B), 402(e), 408(f), 531, 541, or 1378 and any additional tax imposed for the taxable year by section 1351(d)(1). In addition, any increase in tax resulting from the application of section 47 (relating to certain dispositions, etc., of section 38 property) shall not be treated as tax imposed by chapter 1 for purposes of computing the liability for tax. See section 47(c).

* * * * *

PAR. 3. Section 1.50A is amended by revising section 50A(a)(3) and the historical note. These amended provisions read as follows:

§ 1.50A Statutory provisions; amount of credit.

SEC. 50A. *Amount of credit*—(a) * * *

(3) *Liability for tax.* For purposes of paragraph 2, the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credits allowable under—

(A) Section 33 (relating to foreign tax credit),

(B) Section 35 (relating to partially tax exempt interest),

(C) Section 37 (relating to retirement income),

(D) Section 38 (relating to investment in certain depreciable property), and

(E) Section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 408(e) [sic] (relating to additional tax on income from certain retirement accounts), section 402(e) (relating to tax on lump sum distributions), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of Subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

* * * * *

[Sec. 50A as added by sec. 601(b), Rev. Act 1971 (85 Stat. 554); as amended by secs. 2001(g)(2)(B), 2002(g)(2), and 2005(c)(4), Employee Retirement Income Security Act 1974 (88 Stat. 957, 968, and 991)]

PAR. 4. Section 1.50A–1 is amended by revising paragraph (c) to read as follows:

§ 1.50A–1 Determination of amount.

* * * * *

(c) *Liability for tax.* For the purpose of computing the limitation based on amount of tax, section 50A(a)(3) defines the liability for tax as the income tax imposed for the taxable year by Chapter 1 of the Code (including the 6 percent additional tax imposed by section 1562(b)), reduced by the sum of the credits allowable under—

(1) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(2) Section 35 (relating to partially tax-exempt interest received by individuals),

(3) Section 37 (relating to retirement income),

(4) Section 38 (relating to investment in certain depreciable property), and

(5) Section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, the tax imposed for the taxable year by section 56 (relating to imposition of minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to imposition of accumulated earnings tax), section 541 (relating to imposition of personal holding company tax), or section 1378 (relating to tax on certain capital gains of Subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by Chapter 1 of the Code for such year. Thus, the liability for tax for purposes of computing the limitation based on amount of tax for the taxable year is determined without regard to any tax imposed by section 56, 72(m)(5)(B), 402(e), 408(f), 531, 541, 1351(d)(1) or 1378 of the Code. In addition, any increase in tax resulting from the application of section 50A (c) and (d) and § 1.50A–3 (relating to recomputation of credit allowed due to early termination of employment by employer, or failure to pay comparable wages) shall not be treated as tax imposed by Chapter 1 of the Code for purposes of computing the liability for tax. See section 50A (c)(3) and (d)(2).

* * * * *

PAR. 5. Section 1.72 is amended by striking out paragraph (1) and amending paragraph (4)(A), (5), and (6) of subsection (m), by striking out subsection (n) by redesignating subsections (o) and (p) as (n) and (o), respectively, and by revising the historical note. These amended and redesignated provisions read as follows:

§ 1.72 Statutory provisions; annuities; certain proceeds of endowment and life insurance policies.

SEC. 72. *Annuities; certain proceeds of endowment and life insurance policies.* * * *

(m) *Special rules applicable to employee annuities and distributions under employee plans.* * * *

(1) [Repealed]

* * * * *

(4) *Amounts constructively received*—(A) *Assignments or pledges.* If during any taxable year an owner-employee assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a trust described in section 401(a) which is exempt from tax under section 501(a), an individual retirement amount [sic] described in section 408(a), an individual retirement annuity described in section 408(b) or any portion of the value of a contract purchased as part of a plan described in section 403(a), such portion shall be treated as having been received by such owner-employee as a distribution from such trust or as an amount received under the contract.

* * * * *

(5) *Penalties applicable to certain amounts received by owner-employees.* (A) This paragraph shall apply—

(i) To amounts (other than any amount received by an individual in his capacity as a policyholder of an annuity, endowment, or life insurance contract which is in the nature of a dividend or similar distribution) which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a) and which are received by an individual, who is, or has been, an owner-employee, before such individual attains the age of 59½ years, for any reason other than the individual's becoming disabled (within the meaning of paragraph (7) of this subsection), but only to the extent that such amounts are attributable to contributions paid on behalf of such individual (other than contributions made by him as an owner-employee) while he was an owner-employee, and

(ii) To amounts which are received from a qualified trust described in section 401(a) or under a plan described in section 403(a)

at any time by an individual who is, or has been, an owner-employee, or by the successor of such individual, but only to the extent that such amounts are determined, under regulations prescribed by the Secretary or his delegate, to exceed the benefits provided for such individual under the plan formula.

(B) If a person receives an amount to which this paragraph applies, his tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of the amount so received which is includible in his gross income for such taxable year.

(6) *Owner-employee defined.* For purposes of this subsection, the term "owner-employee" has the meaning assigned to it by section 401(c)(3) and includes an individual for whose benefit an individual retirement account or annuity described in section 408 (a) or (b) is maintained.

* * * * *

(n) *Annuities under retired serviceman's family protection plan or survivor benefit plan.* Subsections (b) and (d) shall not apply in the case of amounts received after December 31, 1965, as an annuity under chapter 73 of title 10 of the United States Code, but all such amounts shall be excluded from gross income until there has been so excluded (under section 122(b)(1) or this section, including amounts excluded before Jan. 1, 1966) an amount equal to the consideration for the contract (as defined by section 122 (b)(2)), plus any amount treated pursuant to section 101(b)(2)(D) as additional consideration paid by the employee. Thereafter all amounts so received shall be included in gross income.

(o) *Cross reference.* For limitation on adjustments to basis of annuity contracts sold, see section 1021.

[Sec. 72 as amended by sec. 4 (a) and (b), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 821); sec. 11(b), Rev. Act 1962 (76 Stat. 1005); sec. 232(b), Rev. Act 1964 (78 Stat. 110); sec. 809(d)(2), Excise Tax Reduction Act of 1965 (79 Stat. 167); sec. 106(d)(2), Social Security Amendments 1965 (79 Stat. 337); sec. 1(b), Act of Mar. 8, 1966 (Public Law 89-365, 80 Stat. 32); sec. 515(b), Tax Reform Act 1969 (83 Stat. 644); secs. 2001 (e)(5), (g) (1), (2), (h), (2), (3), 2002(g)(10), 2005(c)(3) and 2007(b)(2), Employee Retirement Income Security Act 1974 (88 Stat. 955, 957, 970, 991, and 994)]

PAR. 6. Section 1.72-17 is amended by adding the following new paragraph at the end thereof:

§ 1.72-17 Special rules applicable to owner-employees.

* * * * *

(g) *Years to which this section applies.* This section applies to taxable years ending before September 3, 1974. For taxable years ending after September 2, 1974, see § 1.72-17A.

PAR. 7. The following new section is added immediately after § 1.72-17:

§ 1.72-17A Special rules applicable to employee annuities and distributions under deferred compensation plans to self-employed individuals and owner-employees.

(a) *In general.* Section 72(m) and this section contain special rules for the taxation of amounts received from qualified pension, profit-sharing, or annuity plans covering an owner-employee. This section applies to such amounts for taxable years of the recipient ending after September 2, 1974, unless another date is specified. For purposes of this section, the term "employee" shall include the self-employed individual who is treated as an employee by section 401(c)(1) (see paragraph (b) of § 1.401(e)-1), and the term "owner-employee" has the meaning assigned to it in section 401(c)(3) (see paragraph (d) of § 1.401(e)-1). See also paragraph (a)(2) of § 1.401(e)-1 for the rule for determining when a plan covers an owner-employee. Paragraph (b) of this section provides rules dealing with the computation of consideration paid by self-employed individuals and paragraph (c) of this section provides rules dealing with such computation when insurance is purchased for owner-employees. Paragraph (d) of this section provides rules for constructive receipt and, for purposes of these rules, treats as an owner-employee an individual for whose benefit an individual retirement account or annuity described in section 408 (a) or (b) is maintained after December 31, 1974. Paragraph (e) of this section provides rules for penalties provided by section 72(m)(5) with respect to certain distributions received by owner-employees or their successors. Paragraph (f) of this section provides rules for determining whether a person is disabled within the meaning of section 72(m)(7). See § 1.72-16, relating to life insurance contracts purchased under qualified employee plans, for rules under section 72(m)(3).

(b) *Computation of consideration paid by self-employed individuals.* Under section 72(m)(2), consideration paid or contributed for the contract by any self-employed individual shall for purposes of section 72 be deemed not to include any contributions paid or contributed under a plan described in paragraph (a), or any other plan of deferred compensation described in section 404(a) (whether or not qualified), if the contributions are—

(1) Paid under such plan with respect to a time during which the employee was an employee only by reason of sections 401(c)(1) and 404(a)(8), and

(2) Deductible under section 404 by the employer, including an employer within the meaning of sections 401(c)(4) and 404(a)(8), of such self-employed individual at the time of such payment, or subsequent to such time of payment.

For purposes of this paragraph the term "consideration paid or contributed for the contract" has the same meaning as under subparagraphs (1), (2), and (3) of paragraph (c) of this section.

(c) *Amounts paid for life, accident, health, or other insurance.* Under section 72(m)(2), amounts used to purchase life, accident, health, or other insurance protection for an owner-employee shall not be taken into account in computing the following:

(1) The aggregate amount of premiums or other consideration paid for the contract for purposes of determining the investment in the contract under section 72(c)(1)(A) and § 1.72-6;

(2) The consideration for the contract contributed by the employee for purposes of section 72(d)(1) and § 1.72-13, which provide the method of taxing employee's annuities where the employee's contributions will be recoverable within 3 years; and

(3) The aggregate premiums or other consideration paid for purposes of section 72(e)(1)(B) and § 1.72-11, which provide the rules for taxing amounts not received as annuities prior to the annuity starting date.

The cost of such insurance protection will be considered to be a reasonable net premium cost, as determined by the Commissioner, for the appropriate period.

(d) *Amounts constructively received.* (1) Under section 72(m)(4)(A), if during any taxable year an owner-employee assigns or pledges (or agrees to assign or pledge) any portion of his interest in a trust described in section 401(a) which is exempt from tax under section 501(a), or any portion of the value of a contract purchased as part of a plan described in section 403(a), such portion shall be treated as having been received by such owner-employee as a distribution from the trust or as an amount received under the contract during such taxable year.

(2)(i) Under paragraphs (4)(A) and (6) of section 72(m), if after December 31, 1974, during any taxable year an individual for whose benefit an individual retirement account or annuity described in section 408 (a) or (b) is maintained assigns or pledges (or agrees to assign or pledge) any portion of his interest in such account or annuity, such portion shall be treated as having been received by such individual as a distribution from such account or trust during such taxable year. See subsections (d) and (f) of section 408 and the regulations thereunder for the tax treatment of an amount treated as a distribution under this subparagraph.

(ii) Notwithstanding subdivision (i) of this subparagraph, if an individual retirement account or annuity, or portion thereof, is subject to the additional tax imposed by section 408(f), that amount shall be deemed not to be a distribution under section 72(m)(4)(A) and subdivision (i) of this subparagraph.

(3) Under section 72(m)(4)(B), if during any taxable year an owner-employee receives, either directly or indirectly, any amount from any insurance company as a loan under a contract purchased by a trust described in section 401(a) which is exempt from tax under section 501(a) or purchased as part of a plan described in section 403(a), and issued by such insurance company, such amount shall be treated as an amount received under the contract during such taxable year. An owner-employee will be considered to have received an amount under a contract if a premium, which is otherwise in default, is paid by the insurance company in the form of a loan against the cash surrender value of the contract. Further, an owner-employee will be considered to have received an amount to which this subparagraph applies if an

amount is received from the issuer of a face-amount certificate as a loan under such a certificate purchased as part of a qualified trust or plan.

(e) *Penalties applicable to certain amounts received with respect to owner-employees under section 72(m)(5).* (1) (i) For taxable years of the recipient beginning after December 31, 1975, if any person receives an amount to which subparagraph (2) of this paragraph applies, his tax under chapter 1 for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of the amount so received which is includible in his gross income for such taxable year.

(ii) For taxable years of the recipient beginning before January 1, 1976, see subparagraph (3) of this paragraph.

(2) (i) This subparagraph is applicable to amounts, to the extent includible in gross income, received from a qualified trust described in section 401(a) or under a plan described in section 403(a) by or on behalf of an individual who is or has been an owner-employee with respect to such trust or plan—

(A) Which are received before the owner-employee reaches the age of 59½ years, and which are attributable to contributions paid on behalf of such owner-employee by his employer (that is, employer contributions within the meaning of section 401(c)(5)(A) and the increments in value attributable to such employer contributions) and the increments in value attributable to contributions made by him as an owner-employee while he was an owner-employee (that is, the increments attributable to owner-employee contributions within the meaning of section 401(c)(5)(B), but not such contributions; see subdivision (ii) of this subparagraph),

(B) Which are in excess of the benefits provided for such owner-employee under the plan formula (see subdivision (iii) of this subparagraph), or

(C) Which are subject to the transitional rules with respect to willful excess contributions made on behalf of an owner-employee in his employer's taxable years which begin before January 1, 1976 (see subdivision (v) of this subparagraph).

(ii) The amounts referred to in subdivision (i)(A) of this subparagraph do not include—

(A) Amounts received by reason of the owner-employee becoming disabled (see paragraph (f) of this section),

(B) Amounts received by the owner-employee in his capacity as a policyholder of an annuity, endowment, or life insurance contract which are in the nature of a dividend or similar distribution, or

(C) Amounts attributable to contributions (and increments in value thereon) made for years for which the recipient was not an owner-employee.

If an amount is not included in the amounts referred to in subdivision (i)(A) of this subparagraph solely by reason of the owner-employee's becoming disabled and if a penalty would otherwise be applicable with respect to all or a portion of such amount, then for the owner-employee's taxable year in which such amount is received, there must be submitted with his income tax return a doctor's statement as to the impairment, and a statement by the owner-employee with respect to the effect of such impairment upon his substantial gainful activity and the date such impairment occurred. For taxable years which are subsequent to the first taxable year with respect to which the statements referred to in the preceding sentence are submitted, the owner-employee may, in lieu of such statements, submit a statement declaring the continued existence (without substantial diminution) of the impairment and its continued effect upon his substantial gainful activity.

(iii) This subparagraph applies to amounts described in subdivision (i)(B) of this subparagraph (relating to benefits in excess of the plan formula) even though a portion of such amounts may be attributable to contributions made on behalf of an individual while he was not an owner-employee and even if he is deceased and the amounts are received by his successor.

(iv)(A) The rules described in subdivisions (i)(A) and (iii) of this subparagraph, relating to the treatment under section 72(m)(5)(A)(i) of certain premature distributions, may be illustrated by the following example:

Example. (1) A was a member of the X partnership, consisting of partners A through I, and a participant in the partnership's qualified profit-sharing plan which was established on January 1, 1972. A's taxable years, the X partnership's taxable years, the plan years, and other relevant years are all calendar years at all relevant times. For the three calendar years, 1972 through 1974, A was an owner-employee in the X partnership. On January 1, 1975, new partners J and K became partners in the X partnership, and as of that date, each of partners A through K held a 1/11 interest in the capital and profits of the X partnership. On that date, A became a partner who was not an owner-employee. A continued in this status for the 2 calendar years 1975 and 1976. On January 1, 1977, when A was 50 years old and not disabled, he liquidated his interest in the X partnership and became an employee of an unrelated employer. On that date, A received a distribution representing his entire interest in the X partnership's plan of $54,000 cash in violation of the plan provision required by section 401(d)(4)(B). As of that date, the distribution was attributable to the following sources and times, computed by the plan in a manner consistent with this subparagraph:

Calendar years	X contributions on behalf of A deductible under sec. 404	A's contributions made as an employee	Increments in value attributable to column A yearly contributions	Increments in value attributable to column B yearly contributions
	A	B	C	D
1977	0	0	0	0
1976	$7,500	$2,500	$900	$300
1975	7,500	2,500	4,000	1,200
1974	7,500	2,500	1,800	700
1973	2,500	2,500	1,200	1,200
1972	2,500	2,500	1,300	1,300
Totals	27,500	12,500	9,200	4,800

(2) The amount of the $54,000 distribution to which subdivision (i)(A) of this subparagraph applies is $20,000, computed as follows:

X contributions on behalf of A made in years A was an owner-employee:	
1974	$7,500
1973	2,500
1972	2,500
Total	12,500
Increments in value attributable to such contributions:	
1974	1,800
1973	1,200
1972	1,300
Total	4,300
Increments in value attributable to contributions made by A as an employee for years in which he was an owner-employee:	
1974	700
1973	1,200
1972	1,300
Total	3,200
Grand total	20,000

In this example, the $20,000 amount computed above would be includible in A's gross income for 1977 and would be subject to the 10 percent tax described in subparagraph (1)(i) of this paragraph.

(3) Subdivision (i)(A) of this subparagraph does not apply to the contributions made by X on behalf of A for 1976 and 1975 ($7,500 each year, totaling $15,000) nor to the increments in value attributable to those contributions ($900 for 1976 and $4,000 for 1975, totaling $4,900), because A was not an owner-employee with respect to these two years, 1976 and 1975, on account of which these employer contributions were made. For the same reason, subdivision (i)(A) of this subparagraph does not apply to the increments in value attributable to A's contributions for 1976 and 1975 ($300 and $1,300, respectively, totaling $1,600).

See section 4972(c) for the amount of employee contributions which is permitted to be contributed by an owner-employee (as an employee) without subjecting an owner-employee to the tax on excess contributions.

(4) Subdivision (i)(A) of this subparagraph does not apply to the contributions made by A, as an employee during the years when he was an owner-employee ($2,500 during each of the years 1972, 1973, and 1974, totaling $7,500), because the distribution was received in a taxable year of A ending after September 2, 1974; see subparagraph (3) of this paragraph. Furthermore, because the distribution of the amount of A's contributions ($12,500) constitutes consideration for the contract paid by A for purposes of section 72, the $7,500 amount described in the preceding sentence is not includible in his gross

income, and that amount is not subject to the rules of this subparagraph; see subdivision (i) of this subparagraph, and paragraphs (b) and (c) of this section.

(B) The increments in value of an individual's account may be allocated to contributions on his behalf, by his employer or by such individual as an owner-employee, while he was an owner-employee either by maintaining a separate account, or an accounting, which reflects the actual increment attributable to such contributions, or by the method described in (C) of this subdivision.

(C) Where an individual is covered under the same plan both as an owner-employee and as a non-owner-employee, the portion of the increment in value of his interest attributable to contributions made on his behalf while he was an owner-employee may be determined by multiplying the total increment in value in his account by a fraction. The numerator of the fraction is the total contributions made on behalf of the individual as an owner-employee, weighted for the number of years that each contribution was in the plan. The denominator is the total contributions made on behalf of the individual, whether or not as an owner-employee, weighted for the number of years each contribution was in the plan. The contributions are weighted for the number of years in the plan by multiplying each contribution by the number of years it was in the plan. For purposes of this computation, any forfeiture allocated to the account of the individual is treated as a contribution to the account made at the time so allocated. For purposes of this computation, where the individual has received a prior distribution from such account, an appropriate adjustment must be made to reflect such prior distribution.

(D) The method described in (C) of this subdivision may be illustrated by the following example:

Example. B was a member of the XYZ Partnership and a participant in the partnership's profit-sharing plan which was created in 1973. Until the end of 1977, B's interest in the partnership was less than 10 percent. On January 1, 1978, B obtained an interest in excess of 10 percent in the partnership and continued to participate in the profit-sharing plan until 1982. During 1982, prior to the time he attained the age of 59½ years and during a time when he was not disabled, B, who had not received any prior plan distributions, withdrew his entire interest in the profit-sharing plan. At the time his interest was $15,000, $9,600 contributions and $5,400 increment attributable to the contributions. The portion of the increment attributable to contributions while B was an owner-employee is $667.80, determined as follows:

	Contribution A	Number of years contribution was in trust B	Contribution weighted for years in trust (A×B) C
1982	$1,000	0	0
1981	800	1	800
1980	1,200	2	2,400
1979	600	3	1,800
1978	200	4	800
1977	400	5	2,000
1976	2,000	6	12,000
1975	1,000	7	7,000
1974	1,500	8	12,000
1973	900	9	8,100
Total	9,600		46,900

Total weighted contributions as owner-employee (1978–1982) = $5,800.
Total weighted contributions = $46,900.

$$\$5,400 \times \frac{\$5,800}{\$46,900} = \$667.80$$

(E) (*1*) The rules set forth in subdivision (iv) (E) (2) of this subparagraph shall be used to determine the amounts to which subdivision (i) (A) of this subparagraph applies in the case of a distribution of less than the entire balance of the employee's account from a plan in which he has been covered at different times as an owner-employee or as an employee other than an owner-employee.

(2) Distributions or payments from a plan for any employee taxable year shall be deemed to be attributable to contributions to the plan, and increments thereon, in the following order—

(*i*) Employee contributions;

(*ii*) Excess contributions, within the meaning of section 4972(b);

(*iii*) Employer contributions, other than those described in (*ii*), and the increments in value attributable to the employee's own contributions and his employer's contributions on the basis of the taxable years of his employer in succeeding order of time whether or not the employee was an owner-employee for any such year.

For purposes of (*iii*) of this subdivision, the time of contributions made on the basis of any employer taxable year shall take into account the rule specified in section 404(a)(6), relating to time when contributions deemed made.

(v) The amounts referred to in subdivision (i) (C) of this subparagraph are amounts which are received by reason of a distribution of the owner-employee's entire interest under the provisions of section 401(e)(2)(E), as in effect on September 1, 1974, relating to excess contributions on behalf of an owner-employee which are willfully made. Notwithstanding the preceding sentence, an owner-employee's entire interest in all plans with respect to which he is an owner-employee (within the meaning of subsections (d) (8) (C) and (e) (2) (E) (ii) of section 401, as in effect on September 1, 1974) does not include any distribution or payment attributable to his employer's contributions or his own contributions made with respect to his employer's taxable years beginning after December 31, 1975. However, his entire interest in all plans does include all of the distribution or payment attributable to his employer's contributions and his own contributions made with respect to all of his employer's taxable years beginning before January 1, 1976, if any portion thereof is attributable in whole or in part to such a willful excess contribution and such entire interest is received because of a willful excess contribution pursuant to section 401(e)(2)(E)(ii). A distribution or payment is described in the preceding sentence even though it is received in an owner-employee's taxable year beginning after December 31, 1975. For purposes of computing the increments in value attributable to employer taxable years which begin before January 1, 1976, and such increments attributable to such years beginning after December 31, 1975, the rules specified in subdivision (iv) (B), (C), (D), and (E) of this subparagraph shall be applied to the extent applicable. See §1.401(e)–4(c) for transitional rules with respect to contributions described in this subdivision.

(3) (i) For taxable years of the recipient beginning before January 1, 1976, the tax with respect to which subparagraph (2) of this paragraph applies shall be computed under subparagraphs (B), (C), (D), and (E) of section 72(m)(5) as such subparagraphs were in effect prior to the amendments made by subsections (g) (1) and (2) (A) of section 2001 of the Employee Retirement Income Security Act of 1974 (88 Stat. 957) except as provided in subdivisions (ii) and (iii) of this subparagraph (see paragraph (e) of § 1.72–17). For purposes of the preceding sentence, amounts to which subparagraph (2) of this paragraph applies in the case of an amount described in section 72(m)(5)(A)(i) shall be determined under subdivisions (i) (*a*) and (ii) of § 1.72–17(e)(1), except as provided in subdivision (ii) of this subparagraph. For purposes of the first sentence of this subdivision, amounts to which subparagraph (2) of this paragraph applies in the case of an amount described in section 72(m)(5)(A)(ii) shall be determined under subdivisions (i) (*b*) and (iii) of § 1.72–17(e)(1), except as provided in subdivision (iii) of this subparagraph.

(ii) For purposes of applying section 72(m)(5)(A)(i), after the amendment made by section 2001(h)(3) of such Act, and subdivisions (i) (*a*) and (ii) of § 1.72–17(e)(1), to a distribution or payment received in recipient taxable years ending after September 2, 1974, and beginning before January 1, 1976, with respect to contributions made on behalf of an owner-employee which were made by him as an owner-employee (that is, employee contributions within the meaning of section 401(c)(5)(B)) the portion of any distribution or payment attributable to such contributions shall not include such contributions but shall include the increments in value attributable to such contributions.

(iii) For purposes of applying section 72(m)(5)(D) and subdivisions (2)(b) and (iii) of § 1.72–17(e)(1) to recipient taxable years beginning after December 31, 1973, and beginning before January 1, 1976, in the case of distributions or payments made after December 31, 1973, the amounts to which section 402 (a)(2) or 403(a)(2) applies after the amendments made by section 2005(b)(1) and (2) of such Act (88 Stat. 990 and 991) (which are amounts to which subdivision (i)(b) of § 1.72–17(e)(1) does not apply) shall be deemed to be the amount which is treated as a gain from the sale or exchange of a capital asset held for more than 6 months under either of such sections.

(f) *Meaning of disabled.* (1) Section 72(m)(7) provides that an individual shall be considered to be disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration. In determining whether an individual's impairment makes him unable to engage in any substantial gainful activity, primary consideration shall be given to the nature and severity of his impairment. Consideration shall also be given to other factors such as the individual's education, training, and work experience. The substantial gainful activity to which section 72(m)(7) refers is the activity, or a comparable activity, in which the individual customarily engaged prior to the arising of the disability (or prior to retirement if the individual was retired at the time the disability arose).

(2) Whether or not the impairment in a particular case constitutes a disability is to be determined with reference to all the facts in the case. The following are examples of impairments which would ordinarily be considered as preventing substantial gainful activity:

(i) Loss of use of two limbs;

(ii) Certain progressive diseases which have resulted in the physical loss or atrophy of a limb, such as diabetes, multiple sclerosis, or Buerger's disease;

(iii) Diseases of the heart, lungs, or blood vessels which have resulted in major loss of heart or lung reserve as evidnced by X-ray, electrocardiogram, or other objective findings, so that despite medical treatment breathlessness, pain, or fatigue is produced on slight exertion, such as walking several blocks, using public transportation, or doing small chores;

(iv) Cancer which is inoperable and progressive;

(v) Damage to the brain or brain abnormality which has resulted in severe loss of judgment, intellect, orientation, or memory;

(vi) Mental diseases (e.g. psychosis or severe psychoneurosis) requiring continued institutionalization or constant supervision of the individual;

(vii) Loss or diminution of vision to the extent that the affected individual has a central visual acuity of no better than 20/200 in the better eye after best correction, or has a limitation in the fields of vision such that the widest diameter of the visual fields subtends an angle no greater than 20 degrees;

(viii) Permanent and total loss of speech;

(ix) Total deafness uncorrectible by a hearing aid.

The existence of one or more of the impairments described in this subparagraph (or of an impairment of greater severity) will not, however, in and of itself always permit a finding that an individual is disabled as defined in section 72(m)(7). Any impairment, whether of lesser or greater severity, must be evaluated in terms of whether it does in fact prevent the individual from engaging in his customary or any comparable substantial gainful activity.

(3) In order to meet the requirements of section 72(m)(7), an impairment must be expected either to continue for a long and indefinite period or to result in death. Ordinarily, a terminal illness because of disease or injury would result in disability. The term "indefinite" is used in the sense that it cannot reasonably be anticipated that the impairment will, in the foreseeable future, be so diminished as no longer to prevent substantial gainful activity. For example, an individual who suffers a bone fracture which prevents him from working for an extended period of time will not be considered disabled, if his recovery can be expected in the foreseeable future; if the fracture persistently fails to knit, the individual would ordinarily be considered disabled.

(4) An impairment which is remediable does not constitute a disability within the meaning of section 72(m)(7). An individual will not be deemed disabled if, with reasonable effort and safety to himself, the impairment can be diminished to the extent that the individual will not be prevented by the impairment from engaging in his customary or any comparable substantial gainful activity.

PAR. 8. Section 1.401–13 is amended by adding the following new paragraph at the end thereof:

§ 1.401–13 Excess contributions on behalf of owner-employees.

* * * * *

(f) *Years to which this section applies.* This section applies to contributions made in taxable years of employers beginning before January 1, 1976. Thus, for example, in the case of willful contributions made in taxable years of employers beginning before January 1, 1976, paragraphs (e)(1), (2), and (3) of this section apply to such taxable years beginning on or after such date. However, in such a case, because the application of paragraph (e)(4) of this section affects contributions made in taxable years of employers beginning on or after January 1, 1976, paragraph (e)(4) of this section does not apply to such taxable years; see paragraph (c) of § 1.401(e)–4 (relating to transitional rules for excess contributions).

PAR. 9. The following new sections and historical notes are added immediately after § 1.401–14. These added sections and historical notes read as follows:

§ 1.401(c) Statutory provisions; qualified pension, etc. plans; definitions relating to self-employed individuals and owner-employees.

SEC. 401. *Qualified pensions, etc., plans.*

* * *

(c) *Definitions and rules relating to self-employed individuals and owner-employees.* For purposes of this section—

(1) *Employee.* The term "employee" includes, for any taxable year, an individual who has earned income (as defined in paragraph (2)) for the taxable year. To the extent provided in regulations prescribed by the Secretary or his delegate, such term also includes, for any taxable year—

(A) An individual who would be an employee within the meaning of the preceding sentence but for the fact that the trade or business carried on by such individual did not have net profits for the taxable year, and

(B) An individual who has been an employee within the meaning of the preceding sentence for any prior taxable year.

(2) *Earned income*—(A) *In general.* The term "earned income" means the net earnings from self-employment (as defined in section 1402 (a)), but such net earnings shall be determined—

(i) Only with respect to a trade or business in which personal services of the taxpayer are a material income-producing factor,

(ii) Without regard to paragraphs (4) and (5) of section 1402 (c),

(iii) In the case of an individual who is treated as an employee under section 3121 (d) (3) (A), (C), or (D), without regard to paragraph (2) of section 1402 (c), and

(iv) Without regard to items which are not included in gross income for purposes of this chapter, and the deductions properly allocable to or chargeable against such items.

For purposes of this subparagraph, section 1402, as in effect for a taxable year ending on December 31, 1962, shall be treated as having been in effect for all taxable years ending before such date.

(B) [Repealed]

(C) *Income from disposition of certain property.* For purposes of this section, the term "earned income" includes gains (other than any gain which is treated under any provision of this chapter as gain from the sale or exchange of a capital asset) and net earnings derived from the sale or other disposition of, the transfer of any interest in, or the licensing of the use of property (other than good will) by an individual whose personal efforts created such property.

(3) *Owner-employee.* The term "owner-employee" means an employee who—

(A) Owns the entire interest in an unincorporated trade or business, or

(B) In the case of a partnership, is a partner who owns more than 10 percent of either the capital interest or the profits interest in such partnership.

To the extent provided in regulations prescribed by the Secretary or his delegate, such term also means an individual who has been an owner-employee within the meaning of the preceding sentence.

(4) *Employer.* An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (1).

(5) *Contributions on behalf of owner-employees.* The term "contribution on behalf of an owner-employee" includes, except as

the context otherwise requires, a contribution under a plan—

(A) By the employer for an owner-employee, and

(B) By an owner-employee as an employee.

[Sec. 401(c) added by sec. 2(3), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 811); as amended by secs. 204 (c) and 205(a), Act of Nov. 13, 1966 (Public Law 89-809, 80 Stat. 1577 and 1578)]

§ 1.401(d) Statutory provisions; qualified pension, etc., plans; additional requirements for qualification of trusts and plans benefiting owner-employees.

SEC. 401 *Qualified pension, etc., plans.* * * *

(d) *Additional requirements for qualification of trusts and plans benefiting owner-employees.* A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the following requirements of this subsection are met by the trust and by the plan of which such trust is a part:

(1) In the case of a trust which is created on or after October 10, 1962, or which was created before such date but is not exempt from tax under section 501(a) as an organization described in subsection (a) on the day before such date, the assets thereof are held by a bank or other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which he will administer the trust will be consistent with the requirements of this section. A trust shall not be disqualified under this paragraph merely because a person (including the employer) other than the trustee or custodian so administering the trust may be granted, under the trust instrument, the power to control the investment of the trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, and exchanges). This paragraph shall not apply to a trust created or organized outside the United States before October 10, 1962, if, under section 402(c), it is treated as exempt from tax under section 501(a) on the day before such date; or, to the extent provided under regulations prescribed by the Secretary or his delegate, to a trust which uses annuity, endowment, or life insurance contracts of a life insurance company exclusively to fund the benefits prescribed by the trust, if the life insurance company supplies annually such information about trust transactions affecting owner-employees as the Secretary or his delegate shall by forms or regulations prescribe. For purposes of this paragraph, the term "bank" means a bank as defined in section 581, an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act), a corporation which under the laws of the State of its incorporation is subject to supervision and examination by the commissioner of banking or other officer of such State in charge of the administration of the banking laws of such State, and, in the case of a trust created or organized outside the United States, a bank or trust company, wherever incorporated, exercising fiduciary powers and subject to supervision and examination by governmental authority.

(2) Under the plan—

(A) The employees' rights to or derived from the contributions under the plan are nonforfeitable at the time the contributions are paid to or under the plan; and

(B) In the case of a profit-sharing plan, there is a definite formula for determining the contributions to be made by the employer on behalf of employees (other than owner-employees).

Subparagraph (A) shall not apply to contributions which, under provisions of the plan adopted pursuant to regulations prescribed by the Secretary or his delegate to preclude the discrimination prohibited by subsection (a)(4), may not be used to provide benefits for designated employees in the event of early termination of the plan.

(3)(A) The plan benefits each employee having 3 or more years of service (within the meaning of section 410(a)(3)).

(B) For purposes of subparagraph (A), the term "employee" does not include—

(i) Any employee included in a unit of employees covered by a collective-bargaining agreement described in section 410(b)(2)(A), and

(ii) Any employee who is a nonresident alien individual described in section 410(b)(2)(C).

(4) Under the plan—

(A) Contributions or benefits are not provided for any owner-employee unless such owner-employee has consented to being included under the plan; and

(B) No benefits in excess of contributions made by an owner-employee as an employee may be paid to any owner-employee, except in the case of his becoming disabled (within the meaning of section 72(m)(7)), prior to his attaining the age of 59½ years.

(5) The plan does not permit—

(A) Contributions to be made by the employer on behalf of any owner-employee in excess of the amounts which may be deducted under section 404 for the taxable year;

(B) In the case of a plan which provides contributions or benefits only for owner-employees, contributions to be made on behalf of any owner-employee in excess of the amounts which may be deducted under section 404 for the taxable year; and

(C) If a distribution under the plan is made to any employee and if any portion of such distribution is an amount described in section 72(m)(5)(A)(i), contributions to be made on behalf of such employee for the 5 taxable years succeeding the taxable year in which such distribution is made.

Subparagraphs (A) and (B) do not apply to contributions described in subsection (e).

(6) Except as provided in this paragraph, the plan meets the requirements of subsection (a)(4) without taking into account for any purpose contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, as amended, or any other Federal or State law, if—

(A) Of the contributions deductible under section 404, not more than one-third is deductible by reason of contributions by the employer on behalf of owner-employees; and

(B) Taxes paid by the owner-employees under chapter 2 (relating to tax on self-employment income), and the taxes which would be payable under such chapter 2 by the owner-employees but for paragraphs (4) and (5) of section 1402(c), are taken into account as contributions by the employer on behalf of such owner-employees,

then taxes paid under section 3111 (relating to tax on employers) with respect to an employee may, for purposes of subsection (a)(4), be taken into account as contributions by the employer for such employee under the plan.

(7) Under the plan, if an owner-employee dies before his entire interest has been distributed to him, or if distribution has been commenced in accordance with subsection (a)(9)(B) to his surviving spouse and such surviving spouse dies before his entire interest has been distributed to such surviving spouse, his entire interest (or the remaining part of such interest if distribution thereof has commenced) will, within 5 years after his death (or the death of his surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which will be immediately distributed to such beneficiary or beneficiaries. The preceding sentence shall not apply if distribution of the interest of an owner-employee has commenced and such distribution is for a term certain over a period permitted under subsection (a)(9)(B)(ii).

(8) [Repealed]

(9) (A) If the plan provides contributions or benefits for an owner-employee who controls, or for two or more owner-employees who together control, the trade or business with respect to which the plan is established, and who also control as an owner-employee or as owner-employees one or more other trades or businesses, such plan and the plans established with respect to such other trades or businesses, when coalesced, constitute a single plan which meets the requirements of subsection (a) (including paragraph (10) thereof) and of this subsection with respect to the employees of all such trades or businesses (including the trade or business with respect to which the plan intended to qualify under this section is established).

(B) For purposes of subparagraph (A), an owner-employee, or two or more owner-employees, shall be considered to control a trade or business if such owner-employee, or such two or more owner-employees together—

(i) Own the entire interest in an unincorporated trade or business, or

(ii) In the case of a partnership, own more than 50 percent of either the capital interest or the profits interest in such partnership.

For purposes of the preceding sentence, an owner-employee, or two or more owner-employees, shall be treated as owning any interest in a partnership which is owned, directly or indirectly, by a partnership which such owner-employee, or such two or more owner-employees, are considered to control within the meaning of the preceding sentence.

(10) The plan does not provide contributions or benefits for any owner-employee who controls (within the meaning of paragraph (9)(B)), or for two or more owner-employees who together control, as an owner-employee or as owner-employees, any other trade or business, unless the employees of each trade or business which such owner-employee or such owner-employees control are included under a plan which meets the requirements of subsection (a) (including paragraph (10) thereof) and of this subsection, and provides contributions and benefits for employees which are not less favorable than contributions and benefits provided for owner-employees under the plan.

(11) Under the plan, contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established.

[Sec. 401(d) as added by sec. 2(3), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 811); as amended by secs. 204

(b)(1) (B) and (C), Act of Nov. 13, 1966 (Public Law 89-809, 80 Stat. 1577); secs. 1022(b)(2), 1022(c)(1) and (2), 1022(f), 2001(e)(1), and (2), and 2001(h)(1), Employee Retirement Income Security Act 1974 (88 Stat. 939, 940, 954, and 957)]

§ 1.401(e) Statutory provisions; qualified pension, etc., plans; contributions for premiums on annuity, etc., contracts.

SEC. 401. *Qualified pension, etc., plans.*

* * *

(e) *Contributions for premiums on annuity, etc., contracts.* A contribution by the employer on behalf of an owner-employee is described in this subsection if—

(1) Under the plan such contribution is required to be applied (directly or through a trustee) to pay premiums or other consideration for one or more annuity, endowment, or life insurance contracts on the life of such owner-employee issued under the plan,

(2) The amount of such contribution exceeds the amount deductible under section 404 with respect to contributions made by the employer on behalf of such owner-employee under the plan, and

(3) The amount of such contribution does not exceed the average of the amounts which were deductible under section 404 with respect to contributions made by the employer on behalf of such owner-employee under the plan (or which would have been deductible if such section had been in effect) for the first 3 taxable years (A) preceding the year in which the last such annuity, endowment, or life insurance contract was issued under the plan, and (B) in which such owner-employee derived earned income from the trade or business with respect to which the plan is established, or for so many of such taxable years as such owner-employee was engaged in such trade or business and derived earned income therefrom.

In the case of any individual on whose behalf contributions described in paragraph (1) are made under more than one plan as an owner-employee during any taxable year, the preceding sentence does not apply if the amount of such contributions under all such plans for all such years exceeds $7,500. Any contribution which is described in this subsection shall, for purposes of section 4972(b), be taken into account as a contribution made by such owner-employee as an employee to the extent that the amount of such contribution is not deductible under section 404 for the taxable year, but only for the purpose of applying section 4972(b) to other contributions made by such owner-employee as an employee.

[Sec. 401(e) added by sec. 2 (3), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 811); as amended by secs. 204(b)(1) (D) and (E), Act of Nov. 13, 1966 (Public Law 89-809, 80 Stat. 1577); Sec. 2001(e)(3), Employee Retirement Income Security Act 1974 (88 Stat. 954)]

§ 1.401(e)-1 Definitions relating to plans covering self-employed individuals.

(a) *"Keogh" or "H.R. 10" plans, in general—(1) Introduction and organization of regulations.* Certain self-employed individuals may be covered by a qualified pension, annuity, or profit-sharing plan. This section contains definitions contained in section 401(c) relating to plans covering self-employed individuals and is applicable to employer taxable years beginning after December 31, 1975, unless otherwise specified. The provisions of §§ 1.401(a)-1 through 1.401(a)-20, relating to qualification requirements which are generally applicable to all qualified plans, and other provisions relating to the special rules under section 401 (b), (f), (g), (h), and (i), are also generally applicable to any plan covering a self-employed individual. However, in addition to such requirements and special rules, any plan covering a self-employed individual is subject to the rules contained in §§ 1.401(e)-2, (e)-5, and (j)-1. Section 1.401(e)-2 contains general rules, § 1.401(e)-5 contains a special rule limiting the contribution and benefit base to the first $100,000 of annual compensation, and § 1.401(j)-1 contains special rules for defined benefit plans. Section 1.401(e)-3 contains special rules which are applicable to plans covering self-employed individuals when one or more of such individuals is an owner-employee within the meaning of paragraph (d) of this section. Section 1.401(e)-4 contains rules relating to contributions on behalf of owner-employees for premiums on annuity, etc., contracts and a transitional rule for certain excess contributions made on behalf of owner-employees for employer taxable years beginning before January 1, 1976. The provisions of this section and of §§ 1.401(e)-2 through 1.401(e)-5 are applicable to employer taxable years beginning after December 31, 1975, unless otherwise specified.

(2) [Reserved]

§ 1.401(e)-2 General rules relating to plans covering self-employed individuals.

(a) *"Keogh" or "H.R. 10" plans; introduction and organization of regulations.* This section provides certain rules which supplement, and modify, the qualification requirements of §§ 1.401 (a)-1 through 1.401(a)-20 and the special rules provided by § 1.401(b)-1 and other special rules under subsections (f), (g), (h), and (i) of section 401 in the case of a qualified pension, annuity, or profit-sharing plan which covers a self-employed individual who is an employee within the meaning of section 401(c)(1). Section 1.401(e)-1(a)(1) sets forth other provisions which also supplement, and modify, these requirements and special rules in the case of a plan described in this section. The provisions of this section apply to employer taxable years beginning after December 31, 1975, unless otherwise specified.

(b) [Reserved]

§ 1.401(e)-3 Requirements for qualification of trusts and plans benefiting owner-employees.

(a) *"Keogh" or "H.R. 10" plans covering owner-employes; introduction and organization of regulations.* This section prescribes the additional requirements which must be met for qualification of a trust forming part of a pension or profit-sharing plan, or of an annuity plan, which covers any self-employed individual who is an owner-employee as defined in section 401(c)(3). These additional requirements are prescribed in section 401(d) and are made applicable to such a trust by section 401(a)(10)(B) and to an annuity plan by section 404(a)(2). However, to the extent that the provisions of §§ 1.401(e)-1 and 1.401(e)-2 are not modified by the provisions of this section such provisions are also applicable to a plan which covers an owner-employee. The provisions of this section apply to taxable years beginning after December 31, 1975, unless otherwise specified.

(b) [Reserved]

§ 1.401(e)-4 Contributions for premiums on annuity, etc., contracts and transitional rule for certain excess contributions.

(a) *In general.* The provisions of this section prescribe the rules specified in section 401(e) relating to certain contributions made under a qualified pension, annuity, or profit-sharing plan on behalf of a self-employed individual who is an owner-employee (as defined in section 401(c)(3) and the regulations thereunder) in taxable years of the employer beginning after December 31, 1975. However, see also section 415 for rules applicable to limitations on contributions or benefits for years beginning after December 31, 1975. For example, if a defined contribution plan using a trust permitted an employer contribution to be made for any participant in the plan for a year beginning after December 31, 1975, in excess of the amount described in section 415(c)(1)(B), the trust established under such plan would not constitute a qualified trust under section 401(a), notwithstanding the provisions of section 401(e) and this section. Solely for the purpose of applying section 4972(b) (relating to excise tax on excess contributions for self-employed individuals) to other contributions made by an owner-employee as an employee, the amount of any employer contribution which is not deductible under section 404 for the employer's taxable year but which is described in section 401(e) and this section shall be taken into account as a contribution made by such owner-employee as an employee during the taxable year of his employer in which such contribution is made.

(b) *Contributions described in section 401(e)—*(1) An employer contribution on behalf of an owner-employee is described in section 401(e), if—

(i) Under the provisions of the plan, the contribution is expressly required to be applied (either directly or through a trustee) to pay the premiums or other consideration for one or more annuity, endowment, or life insurance contracts on the life of the owner-employee.

(ii) The employer contributions so applied meet the requirements of subparagraphs (2) through (5) of this paragraph,

(iii) The amount of the contribution exceeds the amount deductible under section 404 with respect to contributions made by the employer on behalf of the owner-employee under the plan, and

(iv) The total employer contributions required to be applied annually to pay

premiums on behalf of any owner-employee for contracts described in this paragraph do not exceed $7,500. For purposes of computing such $7,500 limit, the total employer contributions include amounts which are allocable to the purchase of life, accident, health, or other insurance.

(2) (i) The employer contributions must be paid under a plan which satisfies all the requirements for qualification. Accordingly, for example, contributions can be paid under the plan for life insurance protection only to the extent otherwise permitted under sections 401 through 404 and the regulations thereunder. However, certain of the requirements for qualification are modified with respect to a plan described in this paragraph (see section 401(a)(10)(A)(ii) and (d)(5)).

(ii) A plan described in this paragraph is not disqualified merely because a contribution is made on behalf of an owner-employee by his employer during a taxable year of the employer for which the owner-employee has no earned income. On the other hand, a plan will fail to qualify if a contribution is made on behalf of an owner-employee which results in the discrimination prohibited by section 401(a)(4) as modified by section 401(a)(10)(A)(ii) (see paragraph (f)(3) of § 1.401(e)-3).

(3) The employer contributions must be applied to pay premiums or other consideration for a contract issued on the life of the owner-employee. For purposes of this subparagraph, a contract is not issued on the life of an owner-employee unless all the proceeds which are, or may become, payable under the contract are payable directly, or through a trustee of a trust described in section 401(a) and exempt from tax under section 501(a), to the owner-employee or to the beneficiary named in the contract or under the plan. For example, a nontransferable face-amount certificate described in section 401(g) and the regulations thereunder is considered an annuity on the life of the owner-employee if the proceeds of such contract are payable only to the owner-employee or his beneficiary.

(4) (i) For any taxable year of the employer, the amount of contributions by the employer on behalf of the owner-employee which is applied to pay premiums under the contracts described in this paragraph must not exceed the average of the amounts deductible under section 404 by such employer on behalf of such owner-employee for the most recent three taxable years of the employer which are described in the succeeding sentence. The three employer taxable years described in the preceding sentence must be years, ending prior to the date the latest contract was entered into or modified to provide additional benefits, in which the owner-employee derived earned income from the trade or business with respect to which the plan is established. However, if such owner-employee has not derived earned income for at least three taxable years preceding such date, then, in determining the "average of the amounts deductible", only so many of such taxable years as such owner-employee was engaged in such trade or business and derived earned income therefrom are taken into account.

(ii) For the purpose of making the computation described in subdivision (i) of this subparagraph, the taxable years taken into account include those years in which the individual derived earned income from the trade or business but was not an owner-employee with respect to such trade or business. Furthermore, taxable years of the employer preceding the taxable year in which a qualified plan is established are taken into account.

(iii) For purposes of making the computations described in subdivisions (i) and (ii) of this subparagraph for any taxable year of the employer, the average of the amounts deductible under section 404 by the employer on behalf of an owner-employee for the most recent three relevant taxable years of the employer shall be determined as if section 404, as in effect for the taxable year for which the computation is to be made, had been in effect for all three such years.

(5) For any taxable year of an employer in which contributions are made on behalf of an individual as an owner-employee under more than one plan, the amount of contributions described in this section by the employer on behalf of such an owner-employee under all such plans must not exceed $7,500.

(c) *Transitional rule for excess contributions*—(1) (i) The rules of this paragraph are inapplicable to a plan which was not in existence for any taxable year of an employer which begins before January 1, 1976. For taxable years of an employer which begin before January 1, 1976, the rules with respect to excess contributions on behalf of owner-employees set forth in section 401(d) (5) and (8) and in section 401(e), as these sections were in effect on September 1, 1974, prior to their amendment by section 2001(e) of the Employee Retirement Income Security Act 1974 (hereinafter in this paragraph referred to as the "Act") (88 Stat. 954), shall apply except as provided by subparagraph (2) of this paragraph. Section § 1.401-13 generally provides the rules for excess contributions on behalf of owner-employees set forth in these sections.

(ii) Notwithstanding the provisions of subdivision (i) of this subparagraph, the rules set forth in such subsections (d) (5) and (8) and (e) of section 401 with respect to excess contributions for such taxable years beginning before January 1, 1976, apply even though the application of those rules affects a subsequent taxable year. Thus, for example, if, in 1975, a nonwillful excess contribution described in section 401(e)(1) (prior to such amendment) is made on behalf of an owner-employee, the plan will not be qualified unless the provisions required by subparagraphs (A) and (B) of such 401(d)(8) are contained in the plan and made applicable to excess contributions made for such taxable years beginning before January 1, 1976. In such case, the effect of such contribution on the plan, the employer, and the owner-employee would be determined under paragraph (2) of section 401(e), as in effect on September 1, 1974. By reason of section 401(e)(2)(F), as in effect on September 1, 1974, the period for assessing any deficiency by reason of the excess contribution will not expire until the expiration of the 6-month period described in section 401(e)(2)(C), as in effect on September 1, 1974, even if the first day of such 6-month period falls in a taxable year beginning after December 31, 1975. For the rules applicable to a willful excess contribution, which generally divide an owner-employee's interest in a plan into two parts on the basis of employer taxable years beginning before and after December 31, 1975, see § 1.72-17A(e)(2)(v). In the case of a willful excess contribution, the rule specified in section 401(e)(2)(E)(iii), as in effect on September 1, 1974, shall not apply to any taxable year of an employer beginning on or after January 1, 1976. Thus, for example, if a willful excess contribution was made to a plan on behalf of an owner-employee with respect to his employer's taxable year beginning January 1, 1975, the plan would not meet, for purposes of section 404, the requirements of section 401(d) with respect to that owner-employee for such year, but the 5 taxable years following such year would be unaffected because those years begin on or after January 1, 1976.

(2) (i) For purposes of applying the excess contribution rules with respect to the employer taxable years specified in subparagraph (1) of this paragraph for such an employer taxable year which begins after December 31, 1973, see section 404(e) and § 1.404(e)-1A for rules increasing the limitation on the amount of allowable employer deductions on behalf of owner-employees under section 404. For purposes of applying subparagraphs (A) and (B) (i) of section 401(e)(1) prior to the amendment made by section 2001(e)(3) of the Act (88 Stat. 954), the employer deduction allowable by section 404(e)(4) with respect to an owner-employee in a defined contribution plan shall be deemed not to be an excess contribution (see § 1.404(e)-1A(c)(4)).

(ii) For purposes of applying the excess contribution rules with respect to the employer taxable years specified in subparagraph (1) of this paragraph to an employer's plan which was not in existence on January 1, 1974, or to a plan in existence on January 1, 1974, which elects under section 1017(d) of the Act (88 Stat. 934), in accordance with regulations, to have the funding provisions of section 412 apply to such an existing plan, see section 404 (a)(1), (a)(6), and (a)(7), as amended by section 1013(c) (1), (2), and (3) of the Act (88 Stat. 922 and 923) for rules modifying the amount of employer deductions on behalf of owner-employees.

§ 1.401(e)–5 Limitation of contribution and benefit bases to first $100,000 of annual compensation in case of plans covering self-employed individuals.

(a) *General rules.* Under section 401(a)(17), a plan maintained by an employer which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1) is a qualified plan only if the annual compensation of each employee taken into account under the plan does not exceed the first $100,000 of such compensation. For purposes of applying section 401(a)(17) and the preceding sentence, all plans maintained by such an employer with respect to the same trade or business shall be treated as a single plan. See also sections 401(d) (9) and (10) (relating to controlled trades or businesses where a plan covers an owner-employee who controls more than one trade or business); section 404(e) (relating to special limitations for self-employed individuals); section 413(b)(7) (relating to determination of limitations provided by section 404(a) in the case of certain plans maintained pursuant to a collective bargaining agreement); section 413(c)(6) (relating to determination of limitations provided by section 404(a) in the case of certain plans maintained by more than one employer); and section 414(c) (relating to employees of partnerships, proprietorships, etc. which are under common control).

(b) *Integrated plans.* (1) In the case of a qualified plan, other than a plan described in section 414(j), which is integrated with the Social Security Act (chapter 21 of the Code), or with contributions or benefits under chapter 2 of the Code (relating to tax on self-employment income) or under any other Federal or State law, the $100,000 limitation described in subparagraph (a) shall be determined without regard to any adjustments to contributions or benefits under the plan on account of such integration. See also subsections (a)(5), (a)(15), and (d)(6) of section 401 and the regulations thereunder for other rules with respect to plans which are integrated.

(2) In the case of a qualified defined benefit plan described in section 414(j), see section 401(j)(4) for a special prohibition against integration.

(c) *Application of nondiscrimination requirement.* (1) This paragraph shall apply—

(i) In the case of a defined contribution plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1) and

(ii) For a year in which the compensation of any employee covered by the plan exceeds $100,000. In the case of an employee who is an employee within the meaning of section 401(c)(1), compensation means earned income within the meaning of section 401(c)(2).

(2) In applying section 401(a)(4) under the circumstances described in subparagraph (1) of this paragraph, the determination whether the rate of contributions under the plan discriminates in favor of highly compensated employees shall be made as if the compensation for the year of each employee described in subparagraph (1)(ii) of this paragraph were $100,000, rather than the compensation actually received by him for such year.

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

Example (1). A, a self-employed individual, has established the P Profit-Sharing Plan, which covers A and his two common-law employees, B and C. A's taxable year and the plan's plan year are both the calendar year. For 1976, A has earned income of $150,000, and B and C each receive compensation of less than $100,000 from A. If he wishes to contribute $7,500 to the plan on his behalf for 1976, A must also contribute to the accounts of B and C under the plan amounts at least equal to 7½ percent of their respective compensation for 1976.

Example (2). D, an owner-employee within the meaning of section 401(c)(3), is a participant in the Q Qualified Defined Contribution Plan, which, in 1975, satisfies the requirements of section 401(d)(6) and all other integration requirements applicable to qualified defined contribution plans. The taxable years of D, the employer of D within the meaning of section 401(c)(4), and the plan are all calendar years. The plan provides for an integration level of $13,200 and a contribution rate of 5 percent of compensation in excess of $13,200. For 1975, D has earned income of $115,000. The maximum amount of earned income upon which D's contribution can be determined is $86,800, and the contribution based upon this maximum amount of earned income is $4,340, computed as follows:

Maximum annual compensation which may be taken into account	$100,000
Less: Social Security Act integration level	13,200
Plan contribution base	$86,800
Multiplied by: Contribution rate (percent)	5
Total	$4,340

(e) *Years to which section applies.* This section applies to taxable years of an employer beginning after December 31, 1975. However, if employer contributions made under a plan for any employee for taxable years of an employer beginning after December 31, 1973, exceed the amounts permitted to be deducted for that employee under section 404(e), as in effect on September 1, 1974, this section applies to such taxable years of an employer.

Thus, for example, a plan of a calendar year employer which was adopted on January 1, 1974, would be subject to this section in 1974, if the employer made a contribution on behalf of any employee within the meaning of section 401(c)(1) for such year in excess of the $2,500 or 10 percent earned income limit, whichever is applicable to that employee, specified in section 404(e)(1) as in effect prior to the amendment to such Code section made by section 2001(a)(1)(A) of the Employee Retirement Income Security Act of 1974 (88 Stat. 952). The plan described in the preceding sentence would also be subject to this section in 1974, if the employer made a contribution on behalf of any employee within the meaning of section 401(c)(1) which is allowable as a deduction only because of the addition of paragraph (4) to Code section 404(e) made by section 2001(a)(3) of such Act (88 Stat. 952).

§ 1.401(e)–6 Special rules for shareholder-employees.

(a) *Limitation of contributions and benefit bases to first $100,000 of annual compensation in case of plans covering shareholder-employees.* (1) Under section 401(a)(17), a plan which provides contributions or benefits for employees, some or all of whom are shareholder-employees within the meaning of section 1379(d), is subject to the same limitation on annual compensation as a plan which provides such contributions or benefits for employees some or all of whom are self-employed individuals within the meaning of section 401(c)(1). Thus, a plan which provides contributions or benefits for such shareholder-employees is subject to the rules provided by § 1.401(e)–5, unless otherwise specified. See also section 1379 and §§ 1.1379–1 through 4.

(2) Subparagraph (1) applies to taxable years of an electing small business corporation beginning after December 31, 1975. However, if corporate contributions made under a plan on behalf of any shareholder-employee for corporate taxable years beginning after December 31, 1973, exceed the lesser of the amount of contributions specified in section 1379(b)(1)(A) or (B), as in effect on September 1, 1974, for that shareholder-employee, subparagraph (1) applies to such corporate taxable years. Thus, for example if an electing small business corporation whose taxable year is the calendar year adopted a plan on January 1, 1974, the plan would be subject to the provisions of subparagraph (1) of this section in 1974, if the corporation made a contribution in excess of $2,500 on behalf of any shareholder-employee for such year.

(b) [Reserved]

PAR. 10. Section 1.404(a) is amended by deleting paragraph (10) and revising the historical note to read as follows:

§ 1.404(a) Statutory provisions; deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan; general rule.

SEC. 404. *Deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan.—General rule.*

* * * * *

[Sec. 404(a) as amended by sec. 24, Technical Amendments Act 1958 (72 Stat. 1622); sec. 3, Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 819); sec. 2(b), Act of Oct. 23, 1962 (Pub. Law 87-863, 76 Stat. 1141); sec. 204(a), Act of Nov. 13, 1966 (Pub. Law 89-809, 80 Stat. 1577)]

PAR. 11. Section 1.404(e) is amended by revising paragraphs (1) and (2), adding a new paragraph (4), and revising the historical note to read as follows:

§ 1.404(e) Statutory provisions; deduction for contributions of an employer to an employees' trust or annuity plan; special limitations for self-employed individuals.

SEC. 404. *Deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan.* * * *

(e) *Special limitations for self-employed individuals*—(1) *In general.* In the case of a plan included in subsection (a) (1), (2), or (3), which provides contributions or benefits for employees some or all of whom are employees within the meaning of section 401(c)(1), the amounts deductible under subsection (a) in any taxable year with respect to contributions on behalf of any employee within the meaning of section 401(c)(1) shall, subject to paragraphs (2) and (4), not exceed $7,500, or 15 percent of the earned income derived by such employee from the trade or business with respect to which the plan is estabilsed, whichever is the lesser.

(2) *Contributions made under more than one plan*—(A) *Overall limitation.* In any taxable year in which amounts are deductible with respect to contributions under two or more plans on behalf of an individual who is an employee within the meaning of section 401(c)(1) with respect to such plans, the aggregate amount deductible for such taxable year under all such plans with respect to contributions on behalf of such employee shall (subject to paragraph (4)) not exceed $7,500, or 15 percent of the earned income derived by such employee from the trades or businesses with respect to which the plans are established, whichever is the lesser.

(B) *Allocation of amounts deductible.* In any case in which the amounts deductible under subsection (a) (with the application of the limitations of this subsection) with respect to contributions made on behalf of an employee within the meaning of section 401(c)(1) under two or more plans are, by reason of subparagraphs (A), less than the amounts deductible under such subsection determined without regard to such subparagraph, the amount deductible under subsection (a) with respect to such contributions under each such plan shall be determined in accordance with regulations prescribed by the Secretary or his delegate.

* * * * *

(4) *Limitations cannot be lower than $750 or 100 percent of earned income.* The limitations under paragraphs (1) and (2)(A) for any employee shall not be less than the lesser of—

(A) $750, or

(B) 100 percent of the earned income derived by such employee from the trade or businesses taken into account for purposes of paragraph (1) or (2)(A) as the case may be. [Sec. 404(e) as added by sec. 3(b), Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 820); amended by sec. 204(b) (2) and (3), Act of Nov. 13, 1966 (Pub. Law 89-809, 80 Stat. 1577); secs. 2001(a), (1), (2) and (3), Employee Retirement Income Security Act 1974 (88 Stat 952)]

PAR. 12. Section 1.404(e)-1 is amended by adding the following new paragraph at the end thereof:

§ 1.404(e)-1 Contributions on behalf of a self-employed individual to or under a pension, annuity, or profit-sharing plan meeting the requirements of section 401(a); application of section 404(a) (8), (9), and (10) and section 404 (e) and (f).

* * * * *

(i) *Years to which this section applies.* This section applies to taxable years of employers beginning before January 1, 1974. For taxable years beginning after December 31, 1973, see § 1.404(e)-1A.

PAR. 13. The following new section is added immediately after § 1.404(e)-1:

§ 1.404(e)-1A Contributions on behalf of a self-employed individual to or under a qualified pension, annuity, or profit-sharing plan.

(a) *In general.* This section provides rules relating to employer contributions to qualified plans on behalf of self-employed individuals described in subsections (a) (8) and (9), (e), and (f) of section 404. Unless otherwise specifically provided, this section applies to taxable years of an employer beginning after December 31, 1973. See section 1.404(e)-1 for rules relating to plans for self-employed individuals for taxable years beginning before January 1, 1974. Paragraph (b) of this section provides general rules of deductibility, paragraph (c) provides rules relating to defined contribution plans, paragraph (d) provides rules relating to defined benefit plans, paragraph (e) provides rules relating to combinations of plans, paragraph (f) provides rules for partnerships, paragraph (g) provides rules for insurance, paragraph (h) provides rules for loans, and paragraph (i) provides definitions.

(b) *Determination of the amount deductible.* (1) If a plan covers employees, some of whom are self-employed individuals, the determination of the amount deductible is made on the basis of independent consideration of the common-law employees and of the self-employed individuals. See subparagraphs (2) and (3) of this paragraph. For purposes of determining the amount deductible with respect to contributions on behalf of a self-employed individual, such contributions shall be considered to satisfy the conditions of section 162 (relating to trade or business expenses) or 212 (relating to expenses for the production of income), but only to the extent that such contributions do not exceed the earned income of such individual derived from the trade or business with respect to which the plan is established. However, the portion of such contribution, if any, attributable to the purchase of life, accident, health, or other insurance protection shall be considered payment of a personal expense which does not satisfy the requirements of section 162 or 212. See paragraph (g) of this section.

(2)(i) If contributions are made on behalf of employees, some of whom are self-employed individuals, to a defined contribution plan described in section 414(i) and included in section 404(a)(1), (2), or (3), the amount deductible with respect to contributions on behalf of the common-law employees covered under the plan shall be determined as if such employees were the only employees for whom contributions and benefits are provided under the plan. Accordingly, for purposes of such determination, the percentage of compensation limitations of section 404(a) (3) and (7) are applicable only with respect to the compensation otherwise paid or accrued during the taxable year by the employer with respect to the common-law employees. Similarly, the costs referred to in section 404(a)(1) (A) and (B) shall be the costs of funding the benefits of the common-law employees. Also, the provisions of section 404(a)(1)(D), (3), and (7), relating to certain carryover deductions, shall be applicable only to amounts contributed or to the amounts deductible on behalf of such employees.

(ii) [Reserved]

(3)(i) If contributions are made on behalf of individuals, some or all of whom are self-employed individuals, to a defined contribution plan described in section 414(i) and included in section 404(a)(1), (2), or (3), the amount deductible in any taxable year with respect to contributions on behalf of such individuals shall be determined as follows:

(A) The provisions of section 404(a)(1), (2), (3), and (7) shall be applied as if such individuals were the only participants for whom contributions and benefits are provided under the plan. Thus, the costs referred to in such provisions shall be the costs of funding the benefits of the self-employed individuals. If such costs are less than an amount equal to the amount determined under paragraph (c) of this section, the maximum amount deductible with respect to such individuals shall be the cost of their benefits.

(B) The provisions of section 404(a)(1)(D), the third sentence of section 404(a)(3)(A), and the second sentence of section 404(a)(7), relating to certain carryover deductions are applicable to contributions on behalf of self-employed individuals made in taxable years of an employer beginning after December 31, 1975.

(C) For any employer taxable year in applying the 15 percent limit on deductible contributions set forth in section 404(a)(3) and the 25 percent limit in section 404(a)(7) for any taxable year of the employer, the amount deductible under section 404(e)(4) and paragraph (c)(4) of this section (relating to the minimum deduction of $750 or 100 percent of earned income) shall be substituted for such limits with respect to the self-employed individuals on whose behalf contributions are deductible under section 404(e)(4) for the taxable year of the employer. However, see section 415 for rules applicable to years beginning after December 31, 1975. For example, if a defined contribution plan using a trust permitted an employer contribution to

be made for any participant in the plan for a year beginning after December 31, 1975, in excess of the amount described in section 415(c)(1)(B) the trust established under such plan would not constitute a qualified trust under section 401(a), notwithstanding the provisions of section 404(e)(4). The special rule in the second sentence of paragraph (3)(A) of section 404(a) is not applicable in determining the amounts deductible on behalf of self-employed individuals.

(ii) [Reserved]

(c) *Defined contribution plans.* (1) Under section 404(e)(1) in the case of a defined contribution plan, as defined in section 414(i), the amount deductible for the taxable year of the employer with respect to contributions on behalf of a self-employed individual shall not exceed the lesser of $7,500 or 15 percent of the earned income derived by such individual for such taxable year from the trade or business with respect to which the plan is established.

(2) Under section 404(e)(2)(A) if a self-employed individual receives in any taxable year earned income with respect to which deductions are allowable to two or more employers under two or more defined contribution plans the aggregate amounts deductible shall not exceed the lesser of $7,500 or 15 percent of such earned income. This limitation does not apply to contributions made under a plan on behalf of an employee who is not self-employed in the trade or business with respect to which the plan is established.

(3) Under section 404(e)(2)(B) in any case in which the applicable limitation of subparagraph (2) of this paragraph reduces the amount otherwise deductible with respect to contributions on behalf of any employee within the meaning of section 401(c)(1), the amount deductible by each employer for such employee shall be that amount which bears the same ratio to the aggregate amount deductible for such employee with respect to all trades or businesses (as determined in subparagraph (1) of this paragraph) as his earned income derived from the employer bears to the aggregate of his earned income derived from all of the trades or businesses with respect to which plans are established.

(4) Under section 404(e)(4), notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, the limitations on the amount deductible for the taxable year of the employer with respect to contributions on behalf of a self-employed individual shall not be less than the lesser of $750 or 100 percent of the earned income derived by such individual for such taxable year from the trade or business with respect to which the plan is established. If such individual receives in any taxable year earned income with respect to which deductions are allowable to two or more employers, 100 percent of such earned income shall be taken into account for purposes of the limitations determined under this subparagraph. See, however, the special rules provided by paragraph (b)(3)(C) of this section.

(d) *Defined benefit plans.* In the case of a defined benefit plan, as defined in section 401(j), the special limitations provided by section 404(e) and paragraph (c) of this section do not apply. See section 401(j) for requirements applicable to defined benefit plans.

(e) *Combination of plans.* (1) If a self-employed individual in any taxable year is a participant in both a defined contribution plan and a defined benefit plan, the amount deductible under paragraph (c) of this section with respect to the defined contribution plan shall be determined by multiplying the amount determined under paragraph (c) (determined without regard to this paragraph) by 1 minus the fraction determined under subparagraph (2) of this paragraph.

(2) The fraction for any taxable year in which a self-employed individual is a participant in a defined benefit plan is a fraction—

(i) The numerator of which is the basic benefit under the plan, and

(ii) The denominator of which is the basic benefit which would be determined under the plan if the plan provided the maximum basic benefit allowable under section 401(j).

For purposes of this subparagraph, the basic benefit shall be determined in the same manner as provided for in section 401(j).

(f) *Partner's distributive share of contributions and deductions.* (1) For purposes of sections 702(a)(8) and 704 in the case of a defined contribution plan, a partner's distributive share of contributions on behalf of self-employed individuals under such a plan is the contribution made on his behalf, and his distributive share of deductions allowed the partnership under section 404 for contributions on behalf of a self-employed individual is that portion of the deduction which is attributable to contributions made on his behalf under the plan. The contribution on behalf of a partner and the deduction with respect thereto must be accounted for separately by such partner, for his taxable year with or within which the partnership's taxable year ends, as an item described in section 702(a)(8).

(2) In the case of a defined benefit plan, a partner's distributive share of contributions on behalf of self-employed individuals and his distributive share of deductions allowed the partnership under section 404 for such contributions is determined in the same manner as his distributive share of partnership taxable income. See section 704, relating to the determination of the distributive share and the regulations thereunder.

(g) *Contributions allocable to insurance protection.* Under section 404(e)(3), for purposes of determining the amount deductible with respect to contributions on behalf of a self-employed individual, amounts allocable to the purchase of life, accident, health, or other insurance protection shall not be taken into account. Such amounts are neither deductible nor considered as contributions for purposes of determining the maximum amount of contributions that may be made on behalf of an owner-employee. The amount of a contribution allocable to insurance shall be an amount equal to a reasonable net premium cost, as determined by the Commissioner, for such amount of insurance for the appropriate period. See paragraph (b)(5) of § 1.72-16.

(h) *Rules applicable to loans.* Under section 404(f), for purposes of section 404, any amount paid, directly or indirectly, by an owner-employee in repayment of any loan which under section 72(m)(4)(B) was treated as an amount received from a qualified trust or plan shall be treated as a contribution to such trust or under such plan on behalf of such owner-employee.

(i) *Definitions.* Under section 401(a)(3), for purposes of section 404 and the regulations thereunder—

(1) The term "employee" includes an employee as defined in section 401(c)(1) and paragraph (b) of § 1.401(e)-1, and the term "employer" means the person treated as the employer of such individual under section 401(c)(4);

(2) The term "owner-employee" means an owner-employee as defined in section 401(c)(3) and paragraph (d) of § 1.401(e)-1;

(3) The term "earned income" means earned income as defined in section 401(c)(2) and paragraph (c) of § 1.401(e)-1; and

(4) The term "compensation" when used with respect to an individual who is an employee described in subparagraph (1) of this paragraph shall be considered to be a reference to the earned income of such individual derived from the trade or business with respect to which the plan is established.

PAR. 14. Section 1.901 is amended by revising section 901(a) and the historical note. These added provisions read as follows:

§ 1.901 Statutory provisions; taxes of foreign countries and of possessions of the United States

SEC. 901 *Taxes of foreign countries and of possessions of the United States*—(a) *Allowance of credit.* If the taxpayer chooses to have the benefits of this subpart, the tax imposed by this chapter shall, subject to the applicable limitation of section 904, be credited with the amounts provided in the applicable paragraph of subsection (b) plus, in the case of a corporation, the taxes deemed to have been paid under sections 902 and 960. Such choice for any taxable year may be made or changed at any time before the expiration of the period prescribed for making a claim for credit or refund of the tax imposed by this chapter for such taxable year. The credit shall not be allowed against the tax imposed by section 56 (relating to minimum tax for tax preferences), against the tax imposed for the taxable year under section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), against the tax imposed for the taxable year under section 408(f) (relating to additional tax on income from certain retirement accounts), against the tax imposed by section 402(e) (relating to tax on lump sum distributions), against the tax imposed by section 531 (relating to the tax on accumulated earnings), against the additional

tax imposed for the taxable year under section 1333 (relating to war loss recoveries) or under section 1351 (relating to recoveries of foreign expropriation losses), or against the personal holding company tax imposed by section 541.

* * * * *

[Sec. 901 as amended by sec. 3 (a) and (b), Act of Sept. 14, 1960 (Public Law 86-780, 74 Stat. 1013); secs. 9(d)(3) and 12(b)(1), Rev. Act 1962 (76 Stat. 1001, 1031); sec. 207(b)(7), Rev. Act 1964 (78 Stat. 42); sec. 1(c)(2), Act of April 8, 1966 (Public Law 89-384, 80 Stat. 102); sec. 106(a) (4) and (5) and (b) (1) and (2), Foreign Investors Tax Act of 1966 (80 Stat. 1569); secs. 301(b)(9) and 506(a) (1) and (2), Tax Reform Act of 1969 (83 Stat. 585, 634); secs. 2001(g)(2)(C), 2002(g)(3), and 2005(c)(5), Employee Retirement Income Security Act of 1974 (88 Stat. 957, 968, and 991)]

PAR. 15. Section 1.901-1 is amended by revising paragraph (f) to read as follows:

§ 1.901-1 Allowance of credit for taxes.

* * * * *

(f) *Taxes against which credit not allowed.*—The credit for taxes shall be allowed only against the tax imposed by chapter 1 of the Code, but it shall not be allowed against the following taxes imposed under that chapter:

(1) The minimum tax for tax preferences imposed by section 56;

(2) The 10 percent tax on premature distributions to owner-employees imposed by section 72(m)(5)(B);

(3) The tax on lump sum distributions imposed by section 402(e);

(4) The additional tax on income from certain retirement accounts imposed by section 408(f);

(5) The tax on accumulated earnings imposed by section 531;

(6) The personal holding company tax imposed by section 541;

(7) The additional tax relating to war loss recoveries imposed by section 1333; and

(8) The additional tax relating to recoveries of foreign expropriation losses imposed by section 1351.

* * * * *

PAR. 14. Section 1.1379 is amended by revising section 1379(b)(1) and the historical note. These amended provisions read as follows:

§ 1.1379 Statutory provisions; certain qualified pension, etc., plans.

SEC. 1379 *Certain qualified pension, etc. plans.* * * *

(b) *Taxability of shareholder-employee beneficiaries*—(1) *Inclusion of excess contributions in gross income.* Notwithstanding the provisions of section 402 (relating to taxability of beneficiary of employees' trusts), section 403 (relating to taxation of employee annuities), or section 405(d) (relating to taxability of beneficiaries under qualified bond purchase plans), an individual who is a shareholder-employee of an electing small business corporation shall include in gross income, for his taxable year in which or with which the taxable year of the corporation ends, the excess of the amount of contributions paid on his behalf which is deductible under section 404(a) (1), (2), or (3) by the corporation for its taxable year over the lesser of—

(A) 15 percent of the compensation received or accrued by him from such corporation during its taxable year, or

(B) $7,500.

* * * * *

[Sec. 1379 as added by sec. 531(a), Tax Reform Act 1969 (83 Stat. 654); as amended by sec. 2001(b), Employee Retirement Income Security Act 1974 (88 Stat. 952)]

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[26 CFR Part 1]

PASSIVE INVESTMENT INCOME OF ELECTING SMALL BUSINESS CORPORATIONS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by May 22, 1975. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that he considers to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by May 22, 1975. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954.

(68A Stat. 917; 26 U.S.C. 7805).

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

Preamble—This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1372(e)(5) of the Internal Revenue Code of 1954 in order to conform such regulations to the amendments made to the Code by the Act of January 12, 1971 (Pub. Law 91-683, 84 Stat. 2067).

Section 1372(e) of the Internal Revenue Code relates to the termination of an election by a small business corporation under section 1372. Paragraph (5) of section 1372(e) provides generally for termination of the election if, for any taxable year for which the election is in effect, the corporation has gross receipts more than 20 percent of which is passive investment income (as defined in paragraph (5)(C) of section 1372(e)). The Act amended paragraph (5)(C) of section 1372(e) to exclude from the definition of passive investment income amounts which are treated under section 331 of the Code (relating to corporate liquidations) as payments in exchange for stock where the electing small business corporation owned more than 50 percent of each class of the stock of the liquidating corporation.

The amendment to paragraph (5)(C) is effective for taxable years of electing small business corporations ending after January 12, 1971 (the date of enactment of the Act). The amendment is also effective for taxable years ending before October 7, 1970, but only (1) if the making of a refund or the allowance of a credit is not barred on that date by any law or rule of law, and (2) if within one year after January 12, 1971, the corporation elects to have the amendment apply and all persons who were shareholders at any time during the period beginning with the first taxable year to which the amendment applies and ending on or before January 12, 1971, consent to this election and to the application of the amendment. The amendment is not effective for taxable years of corporations ending between October 7, 1970, and January 12, 1971, inclusive.

The Act provided special rules for two situations to prevent the denial of subchapter S status to a corporation where its election under section 1372(a) would have terminated because of the passive investment income limitation (before the amendment made by this Act). First: Subchapter S status is not to be denied because the passive investment income limitation caused a corporation to file its income tax return on a Form 1120 (corporate tax return) instead of a Form 1120S (subchapter S corporation tax return) for any year beginning before January 12, 1971. Second: Subchapter S status is not to be denied because the passive investment income limitation caused a new shareholder of the corporation not to file a timely consent to the subchapter S election. Of course, these special rules apply only with respect to taxable years for which an election has been made.

Proposed amendments to the regulations—In order to conform the Income Tax Regulations (26 CFR Part 1) under section 1372(e)(5) of the Internal Revenue Code of 1954 to the Act of January 12, 1971 (Pub. Law 91-683, 84 Stat. 2067), such regulations are amended as follows:

PARAGRAPH 1. Section 1.1372 is amended by revising subsection (e)(5)(C) of section 1372 and the historical note. These revised provisions read as follows:

§ 1.1372 Statutory provisions; election by small business corporation.

SEC. 1372. *Election by small business corporation.* * * *

(e) *Termination.* * * *

(5) *Passive investment income.* * * *

(C) For purposes of this paragraph, the term "passive investment income" means gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (gross receipts from such sales or exchanges being taken into account for purposes of this paragraph only to the extent of gains therefrom). Gross receipts derived from sales or exchanges of stock or securities for purposes of this paragraph shall not include amounts received by an electing small business corporation which are treated under section 331 (relating to corporate liquidations) as payments in exchange for stock where the electing small business corporation owned more than 50 percent of each class of the stock of the liquidating corporation.

* * * * *

[Sec. 1372 as added by sec. 64(a), Technical Amendments Act 1958 (72 Stat. 1650); amended by sec. 2, Act of May 4, 1961 (Pub. Law 87-29, 75 Stat. 64); secs. 2(b) (2) and 3(a), Act of Apr. 14, 1966 (Pub. Law 89-389, 80 Stat. 114); sec. 1(a), Act of Jan. 12, 1971 (Pub. Law 91-683, 84 Stat. 2067)]

PAR. 2. Paragraph (b) of § 1.1372-4 is amended by revising so much of subparagraph (1) as precedes subdivision (i) thereof, by revising subdivisions (iv)(*a*) and (x) of subparagraph (5), and by adding a new subdivision (xi) immediately after subdivision (x) of subparagraph (5). These revised and added provisions read as follows:

§ 1.1372-4 Termination of election.

* * * * *

(b) *Methods of termination*—(1) *Failure of new shareholder to consent.* An election under section 1372(a) shall terminate if any person who was not a shareholder on the first day of the first taxable year for which the election is effective, or on the day on which the election is made (if such day is later than the first day of the taxable year), becomes a shareholder and does not consent to the election under section 1372(a) within the time prescribed by paragraph (b) of § 1.1372-3. However, see paragraph (c) of § 1.1372-3 for extension of time for filing consents in general, and subparagraph (5) (iii)(*c*) and (xi)(*c*) of this paragraph for exceptions under certain circumstances. In addition, an election which would not have terminated except for the failure of any new shareholder to file a timely consent or except for the fact that the consent of any such new shareholder was defective in any manner is not terminated if—

* * * * *

(5) *Passive investment income.* * * *

(iv) *Gross receipts.* (*a*) The term "gross receipts" as used in section 1372(e) is not synonymous with "gross income". The test under section 1372(e) (4) and (5) shall be made on the basis of total gross receipts, except that, for purposes of section 1372(e)(5), gross receipts from the sales or exchanges of stock or securities shall be taken into account only to the extent of gains therefrom. The term "gross receipts" means the total amount received or accrued under the method of accounting used by the corporation in computing its taxable income. Thus, the total amount of receipts is not reduced by returns and allowances, cost, or deductions. For example, gross receipts will include the total amount received or accrued during the corporation's taxable year from the sale or exchange (including a sale or exchange to which section 337 applies) of any kind of property, from investments, and for services rendered by the corporation. However, gross receipts does not include (*1*) amounts received in nontaxable sales or exchanges (other than those to which section 337 applies), except to the extent that gain is recognized by the corporation, (*2*) amounts received as a loan, as a repayment of a loan, as a contribution to capital, or on the issuance by the corporation of its own stock, or (*3*) certain amounts which are treated under section 331 (relating to corporate liquidations) as payments in exchange for stock (see subdivision (xi) of this subparagraph).

* * * * *

(x) *Gross receipts from the sale of stock or securities.* For purposes of section 1372(e)(5), gross receipts from the sales or exchanges of stock or securities are taken into account only to the extent of gains therefrom. Thus, the gross receipts from the sale of a particular share of stock will be the excess of the amount realized over the adjusted basis of such share. If the adjusted basis should equal or exceed the amount realized on the sale or exchange of a certain share of stock, bond, etc., there would be no gross receipts resulting from the sale of such security. Losses on sales or exchanges of stock or securities do not offset gains on the sales or exchanges of other stock or securities for purposes of computing gross receipts from such sales or exchanges. Gross receipts from the sale or exchange of stock and securities include gains received from such sales or exchanges by a corporation even though such corporation is a regular dealer in stocks and securities. However, gross receipts do not include certain amounts which are treated under section 331 (relating to corporate liquidations) as payments in exchange for stock (see subdivision (xi) of this subparagraph). For the meaning of the term "stock or securities", see paragraph (b)(5)(i) of § 1.543-1.

(xi) *Amounts which are treated under section 331 as payments in exchange for stock*—(*a*) *In general.* (*1*) For purposes of section 1372(e)(5), gross receipts derived from sales or exchanges of stock or securities shall not include amounts received by an electing small business corporation which are treated under section 331 (relating to corporate liquidations) as payments in exchange for stock where the electing small business corporation was, on the date of the first distribution or transfer of such amounts to the small business corporation with respect to such liquidation, the owner of more than 50 percent of each class of the stock of the liquidating corporation. For purposes of this subdivision, the 50-percent requirement shall apply with respect to a class of stock whether or not the class of stock has voting rights. Shares of stock of the liquidating corporation held by a shareholder of the electing small business corporation shall not be attributed to the electing corporation.

(*2*) The provisions of (*a*)(*1*) of this subdivision shall apply to—

(*i*) taxable years of the corporation ending after January 12, 1971, and

(*ii*) any taxable year of the corporation ending before October 7, 1970, with respect to which an election is made under (*b*)(*2*) of this subdivision to apply the rules of (*a*)(*1*) of this subdivision, provided that the requirements of (*b*) (and (*c*) if applicable) of this subdivision are satisfied.

The provisions of (*a*)(*1*) of this subdivision shall not apply to taxable years of corporations ending between October 7, 1970, and January 12, 1971, inclusive.

(*b*) *Taxable years ending before October 7, 1970.* The provisions of (*a*)(*1*) of this subdivision shall apply with respect to any taxable year of an electing small business corporation ending before October 7, 1970, if—

(*1*) On October 7, 1970, the making of a refund or the allowance of a credit to the corporation is not prevented by any law or rule of law, and

(*2*) On or before January 12, 1972, the corporation elects to have the provisions of (*a*)(*1*) of this subdivision apply, and all persons (or their personal representatives) who were shareholders of such corporation at any time during any taxable year beginning with the first taxable year to which this (*b*) of this subdivision applies and ending on or before January 12, 1971, consent to such election and to the application of the provisions of (*a*)(*1*) of this subdivision.

If the assessment of any deficiency in income tax resulting from an election under (*b*)(*2*) of this subdivision for a taxable year ending before the date of the election is prevented before the expiration of one year after the date of the election by any law or rule of law, the deficiency may be assessed at any time prior to the expiration of such one-year period notwithstanding any law or rule of law which would otherwise prevent the assessment. The deficiency assessment is not to be barred by any statute of limitations, even if the period of limitations has expired at the time the election is made, or by a prior court decision as to the taxpayers' income tax liability for that year, or by a prior binding agreement entered into for that year between the taxpayer and the Internal Revenue Service. If, but for the application of this (*b*) of this subdivision, such deficiency year would have been closed, then the deficiency may not exceed the amount attributable to an election under this subdivision.

(*c*) *Special rules.* An election by a corporation under section 1372(a) shall not be treated as terminated for any taxable

year of the corporation beginning before January 12, 1971, merely because such corporation filed its income tax return on a Form 1120 instead of Form 1120S, or because a new shareholder failed to file a timely consent under section 1372 (e)(1), if the corporation's election under section 1372(a) would have been treated as terminated for such taxable year because of the application of section 1372(e)(5), as in effect prior to January 12, 1971, but for an election made by the corporation under (*b*)(2) of this subdivision to have the provisions of (*a*)(*1*) of this subdivision apply.

(*d*) *Election and consents are binding.* The election and consents under this subdivision are binding and may not be revoked.

* * * * *

[FR Doc.75-10394 Filed 4-18-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE

Lists of Endangered and Threatened Fauna

The Fish and Wildlife Service has evidence that the following species of fauna are endangered species and threatened species as defined by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884): Scioto madtom (*Norturus trautmani*); United States population of the American crocodile (*Crocodylus acutus*); Mexican wolf (*Canis lupus baileyi*); Cedros Island mule deer (*Odocoileus hemionus cerrosensis*); peninsular pronghorn antelope (*Antilocapra americana peninsularis*); Hawaii creeper (*Loxops maculata mana*); po'o uli (*Melamprosops phaeosoma*); Newell's Manx shearwater (*Puffinus puffinus newelli*); Bayou darter (*Etheostoma rubrum*); and gray bat (*Myotis grisescens*).

Section 4(a) of the Endangered Species Act of 1973 states that the Secretary of the Interior or the Secretary of Commerce may determine a species to be an endangered species, or a threatened species, because of any of five factors. These factors, and their application to the Scioto madtom, American crocodile, Mexican wolf, Cedros Island mule deer, peninsular pronghorn antelope, Hawaii creeper, po'o uli, Newell's Manx shearwater, Bayou darter, and gray bat are as follows:

1. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Scioto madtom. This fish is known only from one locality in the lower portion of Big Darby Creek, tributary to the Scioto River, Pickaway County, Ohio. In Big Darby Creek the species has been taken in a riffle area with moderate to fast current, where the bottom consists of gravel, sand, silt, and boulders. The Scioto madtom is endangered because of the pollution and siltation of its habitat, and by two proposed impoundments on Big Darby Creek.

American crocodile. This reptile once was a common species in southern Florida, and is known to have bred as far north as Lake Worth. There also are scattered records suggesting its occasional presence considerably farther to the north, both on the Atlantic and Gulf Coasts. By the early Twentieth Century the crocodile still was common throughout Biscayne Bay, as well as along the shores of Florida Bay and in the Florida Keys.

Subsequently, intensive human development of southern Florida eliminated much habitat and also led to excessive killing by man. In the 1950's there still was significant nesting on Key Largo and on islands to the south of Florida Bay, but human pressure has eliminated most of this activity. The last suitable areas on Key Largo are rapidly being destroyed by commercial development. At present there are thought to be only about 10 to 20 breeding females in Florida, with most of these concentrated along the northeast shore of Florida Bay.

Mexican wolf. This species formerly was common in Arizona, New Mexico, southwestern Texas, and much of Mexico. In the Twentieth Century this wolf declined substantially in numbers and distribution, because of habitat loss and killing by man. A recent survey performed under contract with the Fish and Wildlife Service indicated that there now are not more than 200 wolves in Mexico. These animals exist in widely scattered packs which remain subject to intensive human pressure. In the United States, the Mexican wolf now occurs only as a rare wanderer, and there have been few reports of its presence since 1960.

Cedros Island mule deer. This deer is known only from Cedros Island off the western coast of Baja California. Currently only a few, perhaps less than a dozen, are thought to survive in restricted sections of the island.

Peninsular pronghorn antelope. This animal once inhabited most of Baja California, but has been greatly reduced in range, and currently only two or three small remnant groups survive.

Hawaii creeper. This bird was endemic to the island of Hawaii, and reportedly was common through the 1890's. Subsequent habitat alteration, and other factors, restricted it primarily to a small area of forest between 5,000 and 6,000 feet elevation, where it is rare and vulnerable to further environmental disruption.

Po'o uli. This species of bird was discovered only in 1973 and is restricted to a small area of forest on the northeastern slope of Haleakala volcano on the island of Maui. Its past history is unknown, but presumably its decline was caused in part by habitat alteration.

Newell's Manx shearwater. This bird probably once bred on all of the main Hawaiian islands, but now is known to breed only on a very restricted part of Kauai. Nonetheless, it is thought to number in the low thousands, and does not appear in immediate danger of extinction.

Bayou darter. This fish is known only from Bayou Pierre drainage, a small river tributary to the Mississippi River in west Mississippi. In Bayou Pierre the Bayou darter inhabits most clean, silt-free gravel riffle areas in the lower portion of Turkey, White Oak and Fosters creeks and the main channel from Dentville downstream nearly to Port Gibson, Mississippi. In recent years gravel-pit operations and poor agricultural practices have adversely altered the habitat resulting in a reduction in the population of Bayou darters. The Soil Conservation Service has proposed a watershed project which would result in further degradation of the habitat of the Bayou darter. The proposed project would adversely alter the water chemistry and contribute an additional silt load to the stream. This project would pose a serious threat to continued existence of the Bayou darter.

Gray bat. This species of bat occupies certain kinds of caves in southeastern and south-central United States, which are required for roosting, breeding, and hibernating activities. Perhaps no other bat is more dependent upon caves for its existence, and it is the only bat in the eastern United States that normally requires caves in summer as well as in winter. Moreover, this species apparently can utilize only those caves having specific temperature levels. Wintering caves are in short supply; approximately 65 percent of the entire known population of the species hibernates in a single cave, and about 90-95 percent of the population is restricted to only 5 caves. Over the past 20 years about five other major wintering caves have been destroyed. The recent reduction in numbers of summer colonies also is alarming, with several major groups of bats lost when their caves were commercialized, vandalized, or flooded. A number of the remaining winter and summer aggregations are in immediate jeopardy due to the habitat loss.

2. Overutilization for Commercial, Sporting, Scientific, or Educational Purposes

Scioto madtom. Not applicable.

American crocodile. Poaching for skins and eggs still sometimes occurs; and crocodiles occasionally are shot for "sport" from passing boats.

Mexican wolf. Sport hunting is thought to be contributing to the decline of this species.

Cedros Island mule deer. Excessive killing has been an important factor in the decline of this deer; illegal poaching continues.

Peninsular pronghorn antelope. Excessive hunting, some of it by visitors from the United States, also seems to have been an important factor in the decline of this animal.

Hawaii creeper. Not applicable.

Po'o uli. Not applicable.

Newell's Manx shearwater. Not applicable.

Bayou darter. Not applicable.

Gray bat. One of the major causes in the decline of the gray bat has been elimination of colonies that were disrupted or deliberately destroyed when their caves were commercialized or entered repeatedly by explorers, scientists, or vandals. This bat is highly susceptible to human disturbance and may abandon roosting sites as a result. Most remaining major aggregations are in caves readily accessible to humans, and several may be commercialized in the near future.

3. Disease or Predation

Scioto madtom. Not applicable.

American crocodile. Raccoons prey heavily on the eggs and young of crocodiles, and probably destroy the great majority of the annual increment. Raccoon numbers are thought to have increased considerably after man largely eliminated natural predators, including the crocodiles themselves.

Mexican wolf. Not applicable.

Cedros Island mule deer. Predation by feral dogs is thought to have been a major factor in the decline of this deer.

Peninsular pronghorn antelope. These factors are not known to be applicable.

Hawaii creeper. This bird is thought to have declined through transmission of avian diseases by the introduced mosquito *Culex pipiens quinquefasciatus*, and predation by rats.

Po'o uli. The history of this species is unknown, but it probably declined because of the same factors that affected the Hawaii creeper.

Newell's Manx shearwater. Predation by introduced species such as mongooses, dogs, pigs, and rats may have exterminated this species from most of its range.

Bayou darter. Not applicable.

Gray bat. These factors (other than predation by man) are not known to have been major causes in the decline of the gray bat. Natural predation and disease could become more significant as mortality factors, however, as its numbers are reduced and its range becomes more restricted due to other human-induced factors.

4. The Inadequacy of Existing Regulatory Mechanisms

Scioto madtom. Not applicable.

American crocodile. Although crocodiles are protected by State law, and by Federal law in Everglades National Park where most of the population occurs, enforcement is difficult. Most nest sites and adult crocodiles are found in exposed areas that cannot be constantly guarded in the face of increasing human presence. Furthermore, present regulations do not restrict the destruction of habitat outside the Park.

Mexican wolf. This species is protected by national law in Mexico but enforcement is difficult and many wolves are thought to be killed illegally. The wolf is protected by regulation in Arizona, but receives no legal protection in New Mexico or Texas.

Cedros Island mule deer. Although it is illegal to hunt this deer, poaching continues.

Peninsular pronghorn antelope. It also is illegal to hunt this animal, but poaching is a problem.

Hawaii creeper. Not applicable.

Po'o uli. Not applicable.

Newell's Manx shearwater. Not applicable.

Bayou darter. Not applicable.

Gray bat. Not applicable.

5. Other Natural or Manmade Factors Affecting Its Continued Existence

Scioto madtom. Not applicable.

American crocodile. The possibility of a hurricane or other major natural disaster is a real threat to such a small, isolated population. The restriction of the flow of fresh water to the Everglades, because of increasing human developments in southern Florida, may affect the crocodiles as well as the entire ecosystems of the area. It is known that the young crocodiles swim up streams and depend for a period on water with low salt content.

Mexican wolf. Not applicable.

Cedros Island mule deer. Not applicable.

Peninsular pronghorn antelope. Competition with domestic livestock for forage has been a factor in the decline.

Hawaii creeper. Competition with introduced birds probably contributed to the decline of this native species.

Po'o uli. This species also may have been affected by competition with nonnative birds.

Newell's Manx shearwater. Attraction to lights causes considerable mortality from collisions with cars and lighted towers.

Bayou darter. Not applicable.

Gray bat. Available evidence suggests that entire breeding populations of the gray bat may disappear suddenly when numbers fall below a certain critical level. Therefore, even though several large colonies still may be in existence, the species is vulnerable and in danger of extinction if losses in numbers continue.

Notice is hereby given, pursuant to the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–43; 87 Stat. 884), that the Secretary of the Interior proposes to list the following species as endangered and threatened, by making the following amendments:

1. Amend § 17.12 *Endangered native wildlife* to add the following table:

Common name	Scientific name	Range	Portion of range where endangered
Scioto madtom	*Noturus trautmani*	Big Darby Creek, Ohio	Entire range.
American crocodile	*Crocodylus acutus*	Florida, West Indies, Central America, South America.	Florida.
Mexican wolf	*Canis lupus baileyi*	Mexico, Southwest United States	Entire range.
Cedros Island mule deer	*Odocoileus hemionus cerrosensis*	Cedros Island, Mexico	Do.
Peninsular pronghorn antelope.	*Antilocapra americana peninsularis*	Baja California	Do.
Hawaii creeper	*Loxops maculata mana*	Island of Hawaii	Do.
Po'o uli	*Melamprosops phaeosoma*	Island of Maui	Do.
Bayou darter	*Etheostoma rubrum*	Bayou Pierre Drainage in Mississippi.	Do.
Gray bat	*Myotis grisescens*	Southeastern and Southcentral United States.	Do.

2. Amend § 17.32 by adding the following:

Common name	Scientific name	Range	Portion of range where threatened
(a) Mammals	* * *	* * *	* * *
(b) Birds:			
(1) Newell's Manx Shearwater.	*Puffinus puffinus newelli*	Hawaiian Islands	Entire range.

(1) All prohibitions listed in section 9(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) shall apply to the Newell's Manx shearwater.

Supporting data for the above statements and proposals are on file with the Fish and Wildlife Service, Washington, D.C. The Governors of the States of Arizona, Florida, New Mexico, Hawaii, Mississippi, Ohio, and Texas have been notified with respect to this proposed rulemaking and requested to submit comments and recommendations. The Fish and Wildlife Service is also consulting with the Government of Mexico. All interested persons are invited to submit written comments, suggestions, objections, and factual information concerning this proposal to the "Director (FWS/LE), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240." All comments received on or before July 21, 1975 will be considered.

Dated: April 16, 1975.

Lynn A. Greenwalt,
Director,
Fish and Wildlife Service.

[FR Doc. 75-10317 Filed 4-18-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

[7 CFR Part 1701]

CONSTRUCTION OF ELECTRIC DISTRIBUTION AND TRANSMISSION FACILITIES

REA Standard Construction Contract Forms

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA pro-

poses to make changes in the following construction contract forms:

REA Form 200, Construction Contract—Generating.
REA Form 201, Right-of-Way Clearing Contract.
REA Form 203, Transmission System Right-of-Way Clearing Contract.
REA Form 764, Substation and Switching Station Erection Contract.
REA Form 830, Electric System Construction Contract.
REA Form 831, Electric Transmission Construction Contract.

In each of the above construction contract forms it is proposed to change the interest rate of seven percent (7%) per annum shown in Article III of the Contractor's Proposal charged on all unpaid amounts due the Contractor which the Owner has not paid within the due date. The new interest rate is proposed to be one percent (1%) per annum below the published prime rate at Chase Manhattan Bank in New York, but in no event greater than that allowed by any Federal or state laws. The interest rate will be determined as of the first date interest becomes due.

In REA Form 200 only, it is also proposed to change Article IV, Section 1.c, "Protection to Persons and Property", of the Contractor's Proposal, to except from the risks of loss of the Bidder: the risk of loss or of damage to materials or equipment furnished for or used in connection with the Project by the Owner, Bidder or any subcontractor, caused by fire, lightning, wind damage, explosion, riot or civil commotion, aircraft and other vehicles, and smoke damage (against which perils the Owner will maintain Builder's Risk Insurance).

The proposed changes are to become effective September 1, 1975. Revised pages containing the proposed changes to be made in each construction contract form will be issued by File With REA Bulletin 40–8. Persons interested in these changes may submit written data, views or comments to the Director, Power Supply, Management and Engineering Standards Division, Room 3313 South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250 on or before May 21, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Power Supply, Management and Engineering Standards Division, during regular business hours.

A copy of the proposed changes in REA Forms 200, 201, 203, 764, 830, and 831 may be secured in person or by written request from the Director, Power Supply, Management and Engineering Standards Division.

Dated: April 14, 1975.

DAVID A. HAMIL,
Administrator.

[FR Doc.75-10297 Filed 4-18-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 30, 32, 34]

[CGD 74-127]

CONSTRUCTION AND EQUIPMENT OF TANK VESSELS

Proposed Amendments to Tank Vessel Regulations

The United States Coast Guard is considering amending Subchapter D, Rules and Regulations for Tank Vessels. The amendments will require the upgrading of structural fire protection requirements for certain ships, installing inerting systems for ships above specified limits, and increasing the capability of the foam systems of tank ships.

In the September 5, 1974, issue of the FEDERAL REGISTER (39 FR 32147), an advance notice of proposed rulemaking was published concerning an outline of the changes proposed by this notice. The advance notice was published to provide timely notice of the impending changes to the regulations for tank vessels. Eight comments were received by November 1, 1974. The following is a summary of the comments:

Application of Proposed Regulations: One commenter suggested that the regulations should not be made applicable to tank barges inasmuch as IMCO Resolution A.271(VIII), on which the changes were based, was intended for self-propelled tank vessels. This comment was taken under consideration and the regulations as proposed will not apply to tank barges.

Additional questions were raised by commenters concerning the applicability of the resolution to LFG (liquefied flammable gas) carriers. The proposed regulations will apply to LFG carriers. The arrangements and terminology in the LFG trade are different than that used in traditional tank ship trade and construction. Due to these differences an interpretative ruling will be published in the near future. Specific regulations for LFG carriers will be promulgated at a later date.

Implementation Date: Two commenters objected to the timing indicated in the Advance Notice of Proposed Rulemaking and suggested that contract date rather than keel laying date should be utilized. Inasmuch as contract dates can precede keel laying (or similar stage of construction) by several years, utilization of contract dates would allow vessels to be built without adequate safety measures, even though such safety measures have been promulgated. The problems being addressed, however, are immediate and in the interest of safety, additional delays cannot be justified. The intent is to apply the regulations to all tank ships where it is feasible to do so. These regulations will therefore, apply to all ships, the keel of which are laid or which are at a similar stage of construction on or after January 1, 1975.

Technical Comments. Several commenters noted areas of possible contradiction and misinterpretation in the proposed rules and suggested revisions. These areas were reviewed and where possible the suggestions were incorporated. Two commenters indicated that tank size should be the deciding factor for requiring inerting systems rather than the deadweight ton minimums as proposed by IMCO Resolution A.271(VIII). These comments were seriously considered; however, the lack of conclusive technical data concerning this proposal prohibited its adoption.

Discussion: The proposed amendments to the regulations can be divided into the following general categories:

1. Construction requirements.
2. Location and separation of spaces.
3. Cargo tank protection.

The general principles of the regulation in categories 1 and 2 were formulated over a period of years. The construction requirements are fundamentally based on the following:

a. separation of accommodation spaces from the remainder of the ship by thermal and structural boundaries,
b. protection of means of escape,
c. containment and extinction of any fire in the space of origin, and
d. restricted use of combustible materials.

These principles reflect the existing regulations for construction requirements currently applicable in Subchapter D. The amended regulations detail changes that have been necessitated by lack of detail in the present regulations, experience in actual fires, and changes in vessel design and arrangement.

The section of the proposed amendment that speaks to location and separation of spaces is the result of a review of international casualty data which indicated the need to maintain segregation between cargo tanks, machinery spaces, and accommodation and service spaces. The major provision in this section concerns the positioning of accommodation spaces, main cargo control stations, and service spaces. These spaces are required to be located aft of cargo tanks, slop tanks, cargo pump rooms, and cofferdams which isolate cargo or slop tanks from machinery spaces of Category A. This provision would prohibit the construction of a tank ship with a house located amidship, except as a navigating position.

Cargo tank protection is the third jor area of consideration. Existing U.S. regulations require the installation of a fixed deck foam fire fighting system for the protection of the ship in the event of a fire in the cargo tank area. The Advance Notice indicated several important changes to these regulations. The increased foam supply requirement is the result of a need to increase the safety factor inherent in these foam systems.

Several casualties have indicated that the fifteen minute requirement did not allow sufficient time for inexperienced operators to effectively utilize the system. Tests at the Coast Guard Fire and Safety Test Facility have indicated that monitor spacing must be reduced to account for wind. Therefore, the approved range for monitors has been reduced from 90 percent of their tested still air range to 75 percent of their still air range. This will permit monitors to provide full protection of the deck in winds up to 30 knots. In lieu of publishing this as a regulation, it was decided that it should remain a part of the approval procedure for foam systems. The manufacturer's design manuals for all U.S. Coast Guard approved foam systems have been modified to reflect this reduction in range. The requirement for a minimum flow from a foam station is presently based upon the size of the cargo deck and the largest individual tank. However, a single foam monitor may protect several tanks. Therefore, an additional factor has been included to define a minimum monitor discharge based upon the area to be protected by that monitor.

International attention has been drawn in recent years to a number of intank explosions in very large crude carriers (VLCC's) and combination carriers. These explosions resulted in damage or loss of vessels, oil spills, and deaths or injuries to crews. IMCO reviewed the casualties and related published information during formulation of IMCO Resolution A.271 (VIII) but was unable to determine with certainty the cause of the explosions. It was therefore decided to require an inerted atmosphere in each tank because explosions could not occur in such an atmosphere. A resolution was adopted requiring inerting systems for tankers exceeding 100,000 deadweight tons and combination carriers exceeding 50,000 deadweight tons. The United States, after full review by the U.S. SOLAS Subcommittee and the Shipping Coordinating Committee, agreed to adopt these recommendations on a national basis. It should be noted that such inerting systems may have other advantages besides safety. For example, tank corrosion may be reduced with a well designed inert gas system. However, since this is a maintenance factor rather than a safety consideration, the proposed regulations do not require high quality inert gas. It would be the responsibility of the owners to determine the need for such specifications.

Written comments. Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, arguments, objections, and comments to the Executive Secretary, Marine Safety Council (G-CMC/82), Room 8234, U.S. Coast Guard Headquarters, Washington, D.C. 20590. Each person submitting comments should include his name and address, identify this notice (CGD 74-127) and give reasons for any recommendation. Comments received will be available for examination by persons in Room 8234, U.S. Coast Guard Headquarters, Washington, D.C.

Public Hearings. The Coast Guard will hold a public hearing on May 21, 1975, beginning at 9 a.m., in Room 8334, 400 Seventh Street SW., Washington, D.C. Interested persons are invited to attend the hearings and present oral or written statements on this proposal. It is requested that anyone desiring to make oral comments at the hearing notify the Executive Secretary at the above stated address by May 16, 1975, and specify the approximate length of time needed for his presentation. Submission of a written summary or copy of the oral presentation is encouraged.

Closing date for comments. All communication received before June 5, 1975 will be evaluated before final action is taken on this proposal.

Environmental impact: negative declaration. In accordance with section 102 (2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the Council on Environmental Quality Guidelines (40 CFR, Part 1500), and section 7.g. of the Department of Transportation Procedures for Considering Environmental Impacts (39 FR 35234), the Coast Guard gives notice that an Environmental Impact Statement is not being prepared for the action proposed by this notice. The environmental assessment is that this Federal action will not have a significant impact on the environment. The environmental assessment file is available for inspection with the public docket in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C.

Authority. These amendments are proposed under the authority of 46 U.S.C. 375, 391a, 416; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and E.O. 11239 (30 FR 9671).

In consideration of the foregoing, it is proposed to amend Parts 30, 32, and 34 of Chapter I of Title 46 of the Code of Federal Regulations as follows:

PART 30—GENERAL PROVISIONS

1. By adding the following new sections to subpart 30.10:

Subpart 30.10—Definitions

§ 30.10-2 Accommodation space—TB/ALL.

The term "accommodation space" means any public space such as halls, dining rooms, mess rooms, lounges, corridors, lavatories, cabins, offices, hospitals, cinemas, game and hobby rooms, pantries that contain no cooking appliances, and similar spaces open to the passengers and crew.

§ 30.10-5a Cargo control station—TB/ALL.

The term "cargo control station" means a space that is manned during cargo transfer operations for the purpose of directing or controlling the loading or unloading of cargo.

§ 30.10-6a Category A machinery space—TB/ALL.

The term "Category A machinery space" means any space and trunks and ducts to such a space that contains—

(a) internal combustion machinery used for main propulsion;

(b) internal combustion machinery used for purposes other than main propulsion where the total aggregate power is at least 500 brake horsepower;

(c) internal combustion machinery that uses a fuel that has a flash point of less than 43.3° C (110° F); or

(d) oil fired boiler or oil fuel units.

§ 30.10-16b Combination carrier—TB/ALL.

The term "combination carrier" means a tank vessel designed to carry alternatively liquid and solid cargoes in bulk.

§ 30.10-19a Control station—TB/ALL.

The term "control station" means an enclosed space in which is located a ship's radio, main navigating equipment, or emergency source of power or in which is centralized fire recording or fire control equipment.

§ 30.10-20 Deadweight or DWT—TB/ALL.

The term "deadweight" and the abbreviation "DWT" mean the difference in metric tons between the lightweight and the displacement of a vessel measured in water of specific gravity 1.025 at the minimum permissible summer freeboard in accordance with the International Convention on Load Lines, 1966.

§ 30.10-38 Lightweight—TB/ALL.

The term "lightweight" means the displacement of a vessel in metric tons without cargo, oil fuel, lubricating oil, ballast water, fresh water, feedwater in tanks, consumable stores, and persons and their effects.

§ 30.10-42 Machinery spaces—TB/ALL.

The term "machinery spaces" means spaces that contain machinery and related equipment including Category A machinery spaces, propelling machinery, boilers, oil fuel units, steam and internal combustion engines, generators and centralized electrical machinery, oil filling stations, refrigerating, stabilizing, ventilation and air conditioning machinery, and similar spaces and trunks to such spaces.

§ 30.10-48 Oil fuel—TB/ALL.

The term "oil fuel" means oil used as fuel for machinery of the vessel in which it is carried.

§ 30.10-48a Oil fuel unit—TB/ALL.

The term "oil fuel unit" means the equipment used for the preparation of oil fuel for delivery to an oil fired boiler and the equipment used for the preparation of heated oil for delivery to an internal combustion engine. "Oil fuel unit" includes oil pressure pumps, filters, and heaters that deal with oil at a pressure

of more than 1.8 kilograms per square centimeter (25 psi) gauge.

§ 30.10–62a Service spaces—TB/ALL.

Service spaces are spaces outside the cargo area that are used for galleys, pantries containing cooking appliances, lockers, storerooms, paint and lamp rooms and similar spaces that contain highly combustible materials, laundries, garbage and trash disposal, and stowage rooms, workshops other than those forming part of the machinery spaces, and similar spaces and trunks to such spaces.

PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

2. By adding a new subpart 32.53 to Part 32 to read as follows:

Subpart 32.53—Inert Gas System

Sec.

§ 32.53–1 Application—T/ALL.

The provisions of this subpart apply to all ships, the keels of which are laid or which at a similar stage of construction on or after January 1, 1975, that are required to have an inert gas system under § 32.53–10(a) of this subpart.

§ 32.53–5 Operation—T/ALL.

The master of a tankship that is equipped with an inert gas system shall ensure that the system is operated except when the tanks are gas free.

§ 32.53–10 General—T/ALL.

(a) Each tankship of 100,000 deadweight tons and over and each combination carrier of 50,000 deadweight tons and over must have an approved inert gas system.

(b) Each inert gas system must be designed to supply the cargo tanks on demand a gas or a mixture of gases that has an oxygen content of 5% or less by volume.

(c) Each inert gas system must be designed to eliminate the need for fresh air in the tanks during normal operations.

(d) Each tank must be capable of being purged with inert gas.

(e) If the inert gas system is designed to allow the tanks to be purged with fresh air, the fresh air inlets must have blank flanges.

(f) Each inert gas system must be designed to minimize the risk of ignition from the generation of static electricity.

§ 32.53–15 Approval: information required—T/ALL.

The installer of each inert gas system must submit a description and specifications of the generating and distribution system, including all control and monitoring devices, to the appropriate Coast Guard Technical office in accordance with 46 CFR 50.20 for approval.

§ 32.53–20 Inert gas generators—T/ALL.

Systems employing inert gas generators must meet the requirements of 46 CFR 63.05–20 for control of the generator. Plans for each inert gas generator must be submitted for approval in accordance with 46 CFR 63.05–5.

§ 32.53–25 Gas supply—T/ALL.

Each inert gas system must be designed to continuously supply under all service conditions inert gas at a capacity of 125 percent of the combined maximum rated capacities of the cargo pumps.

§ 32.53–30 Positive pressure—T/ALL.

Each inert gas system must be designed to maintain a positive pressure on filled cargo tanks and during loading of cargo tanks.

§ 32.53–35 Gas scrubber—T/ALL.

If the inert gas generation process uses heated gas or introduces contaminants into the system, the system must have a scrubber or other device that will cool the gas and remove solid and sulphur combustion products.

§ 32.53–40 Scrubber: cooling water supply—T/ALL.

(a) The cooling water system of each inert gas system that uses a scrubber must furnish an adequate supply of water to the scrubber without interfering with the water supply to the firefighting system.

(b) An alternate water supply must be available to the scrubber.

§ 32.53–45 Blowers—T/ALL.

(a) Each inert gas system must have at least two blowers that together are capable of delivering the amount of gas required by § 32.53–25 of this subpart.

(b) The blowers must be designed to prevent the pressure exerted on the tanks from exceeding their maximum design pressure.

§ 32.53–50 Gas distribution lines: Non-return device—T/ALL.

(a) Two non-return devices, one of which is a water seal, must be fitted in each inert gas line between the automatic shutdown valve and the cargo tank connections.

(b) The water supply system must be designed to ensure an adequate supply of water to the water seal is maintained at all times.

§ 32.53–55 Stop valves—T/ALL.

Stop valves must be fitted in each branch pipe at each tank.

§ 32.53–60 Instrumentation—T/ALL.

(a) Each inert gas system must be equipped with the following instruments fitted at the discharge side of the blowers:

(1) Oxyen concentration indicator and permanent recorder.

(2) Pressure indicator and permanent recorder.

(3) Temperature indicator.

(b) Each instrument listed in paragraph (a) of this section must—

(1) operate continuously when inert gas is being supplied to the tanks and

(2) provide a readout in a location normally occupied by the person in charge of cargo operations.

§ 32.53–65 Portable instruments—T/ALL.

(a) Each ship that has an inert gas system must have portable instruments for measuring oxygen and hydrocarbon vapors.

(b) Each tank must have fittings to which portable instruments may be attached.

§ 32.53–70 Alarms T/ALL.

(a) Each inert gas system must have the following alarms:

(1) An alarm that gives an audible and visual warning when the oxygen content of the inert gas exceeds 6 percent by volume.

(2) An alarm that gives an audible and visual warning when the pressure in the inert gas main is less than 100 mm (4 inches) of water.

(3) An alarm that gives an audible and visual warning and that automatically shuts off the system's blowers upon loss of pressure to the water seal.

(4) An alarm that gives an audible and visual warning and that automatically shuts off the system's blowers when the inert gas temperature is more than 10° C (18° F) above the ambient seawater temperature.

(5) An alarm that gives an audible and visual warning and that automatically shuts off the system's blowers upon loss of cooling water pressure.

§ 32.53–75 Gas main: automatic shut-down valve—T/ALL.

(a) Each gas main in an inert gas system must have an automatic shut-down valve fitted where the gas main leaves the generating plant.

(b) Each shut-down valve must be designed to close automatically under the following conditions:

(1) Loss of cooling water.

(2) Blower failure.

§ 32.53–80 Tank cleaning—T/ALL.

Each tank cleaning system must be designed to clean the cargo tanks in an inert atmosphere.

§ 32.53–85 Instruction manual—T/ALL.

The master of each ship that has an inert gas system must have an instruction manual that contains instructions for the safe operation of the inert gas system.

3. By adding a new § 32.55–50 to subpart 32.55 to read as follows:

§ 32.55–50 Ventilation of tankships the keels of which are laid on or after January 1, 1975—T/ALL.

(a) Each tankship, the keel of which is laid or which is at a similar stage of construction on or after January 1, 1975, must have deckhouse and superstructure ventilation inlets and outlets and other openings to the exterior arranged to minimize the admission of flammable gas to enclosed spaces that contain a source of ignition.

(b) Ducts for ventilation of Category A machinery space that pass through accommodation spaces, service spaces, or control stations and ducts for ventilation of accommodation spaces, service spaces, or control stations that pass through Category A machinery space must be constructed of steel and insulated to "A–60" class.

4. By adding a new subpart 32.56 to part 32 to read as follows:

Subpart 32.56—Structural Fire Protection for Tank Ships the Keels of Which Are Laid on or After January 1, 1975

Sec.

§ 32.56–1 Application—T/ALL.

This subpart applies to all tankships, the keels of which are laid or which are at a similar stage of construction on or after January 1, 1975, unless otherwise indicated.

§ 32.56–5 General—T/ALL.

(a) Except as provided in paragraph (b) of this section—

(i) Machinery spaces of Category A must be located aft of cargo and slop tanks and pumprooms.

(ii) Accommodation spaces, main cargo control stations, control stations, and service spaces must be positioned aft of cargo tanks, slop tanks, cargo pump rooms, and cofferdams that isolate cargo or slop tanks from machinery spaces of Category A.

(b) Accommodation spaces, service spaces, control stations, and certain machinery spaces such as spaces for bow thrusters, windlass, and emergency fire pumps may be located forward of the cargo and slop tanks and pump room if it is demonstrated to the Commandant that the overall degree of safety of the vessel is improved and that the degree of fire safety for these spaces is not less than the degree of fire safety for similar spaces located aft.

§ 32.56–10 Navigation positions—T/ALL.

Each navigation position that is situated above the cargo tank area must be separated from the cargo deck by an open space that extends at least 2 meters (6.6 feet) from the cargo deck to the navigation position.

§ 32.56–15 Deck spills—T/ALL.

Accommodation and service areas must be protected by a coaming or other barrier.

§ 32.56–20 Superstructures and deckhouses: exterior boundaries—T/ALL.

(a) The following exterior boundaries of accommodation and service areas must be insulated to "A–60" Class:

(1) The portion of exterior boundaries of superstructures and deckhouses that enclose accommodation and service spaces and that face cargo tanks.

(2) Exterior bulkheads and decks within 3 meters (10 feet) of such boundaries.

(b) The portion of the exterior of each superstructure or deckhouse that encloses an accommodation or service space that faces the cargo tanks plus the portion of that exterior on each side of the boundary of the accommodation or service space for a distance of 3 meters or the length of the vessel in meters divided by 25, whichever is greater, except the distance may be limited to 5 meters, must be protected as follows:

(1) No doors to spaces that have access to accommodation and service areas, except to wheelhouses, are permitted. Where doors are fitted to other spaces the interior of the space must be insulated to "A–60" Class.

(2) Port lights, except pilot house windows, must be of a fixed type and fitted with inside covers of steel or another material that has fire resistant properties equivalent to steel.

(3) On liquefied flammable gas carriers, non-fixed wheelhouse windows and doors must be designed to permit rapid closure and to prevent the entrance of vapor into the wheelhouse.

§ 32.56–25 Category A machinery space: windows and port lights—T/ALL.

(a) Except as provided in paragraph (b) of this section and 46 CFR 111.85–10, boundaries of Category A machinery spaces and boundaries of cargo pump rooms must not be pierced for windows or port lights.

(b) Skylights that can be closed from outside the spaces they serve may be fitted in boundaries of Category A machinery spaces.

§ 32.56–30 Category A machinery space: bulkheads and decks—T/ALL.

(a) Bulkheads and decks that separate Category A machinery space from cargo pump rooms must be "A" Class construction.

(b) Bulkheads and decks that separate Category A machinery spaces or cargo pump rooms, including the pump room entrance, from accommodation, service, or control spaces must be "A–60" Class construction.

(c) Bulkheads and decks that separate control stations from adjacent spaces must be "A" Class construction and insulated against fire.

§ 32.56–35 Doors—T/ALL.

(a) Casing doors in Category A machinery spaces and all elevator doors must be self-closing and must meet the requirements of § 72.05–25(b).

(b) If a means of holding a door open is used, it must be a magnetic holdback or equivalent device that is operated from the bridge or other suitable remote control position.

§ 32.56–40 Category A machinery space: insulation—T/ALL.

The surface of insulation within Category A machinery spaces must be impervious to oil and oil vapors.

§ 32.56–45 Draft stops—T/ALL.

(a) Where ceilings or linings are fitted, "B" Class bulkheads, except those that form passageways, may stop at the ceiling or lining if draft stops of "B" Class construction are fitted between the ceiling or lining and the deck or shell at intervals of 14 meters (45 feet) or less.

(b) Spaces behind the linings of stairways and other trunks must have draft stops at each deck.

§ 32.56–50 Combustible veneer—T/ALL.

(a) Except as provided in paragraph (b) of this section, combustible veneers on bulkheads, linings, and ceilings must be 2 mm (.079 inches) or less in thickness.

(b) Veneers on bulkheads, linings, and ceilings in concealed spaces, corridors, stairway enclosures, or control stations, must be an approved interior finish material or a reasonable number of coats of paint.

5. By revising § 32.57–5(b) to read as follows:

§ 32.57–5 Definitions—TB/ALL.

* * * * *

(b) *"A" Class divisions.* Bulkheads or decks of the "A" Class must be composed of steel or equivalent metal construction, suitably stiffened and made intact with the main structure of the vessel; such as shell, structural bulkheads, and decks. They must be so constructed, that if subjected to the standard fire test, they would be capable of preventing the passage of flame and smoke for one hour. In addition, they must be insulated with approved structural insulation, bulkhead panels, or deck covering so that the average temperature on the unexposed side does not rise more than 250° F above the original temperature, nor does the temperature at any one point, including any joint, rise more than 181° C (325° F) above the original temperature, within the time listed below:

	Minutes
Class A–60	60
Class A–30	30
Class A–15	15
Class A–0	[1] 0

[1] No insulation requirements.

* * * * *

6. By amending the introductory clause of § 32.57–10(d) to read as follows:

§ 32.57–10 Construction—TB/ALL.

* * * * *

(d) Within the accommodation areas, control stations, and service areas the following conditions apply: * * *

* * * * *

7. By revising § 32.57–10(d)(7) and by adding a new § 32.57–10(d)(7a) to read as follows:

§ 32.57–10 Construction—TB/ALL.

* * * * *

(d) * * *

(7) Except as provided in subparagraph (7a) of this paragraph, ceilings, linings, and insulation, including pipe and duct laggings, must be of approved incombustible material.

(7a) Combustible insulations and vapor barriers that have a maximum extent of burning of 122 mm (5 inches) or less when tested in accordance with American Society for Testing and Materials (ASTM) Specification D–1692, "Rate of Burning or Extent of Burning of Cellular Plastics Using a Supported Specimen by a Horizontal Screen," may be used in cold service systems within refrigerated compartments.

* * * * *

PART 34—FIREFIGHTING EQUIPMENT

8. By revising § 34.20–1(a) to read as follows:

§ 34.20–1 Application—T/ALL.

(a) Where a deck foam system is installed, the provisions of this subpart, except § 34.20–90, apply to all installations that are contracted for on or after January 1, 1970, unless otherwise indicated.

* * * * *

9. By revising § 34.20–5(c) to read as follows:

§ 34.20–5 Quantity of foam required—T/ALL.

* * * * *

(c) *Supply of foam-producing material.* Each deck foam system must have a supply of foam-producting material sufficient to operate the system at its designated rate of foam production for the following periods:

(1) For installations contracted for on or after January 1, 1970, 15 minutes without recharging.

(2) For installations on ships, the keels of which are laid or which are at a similar stage of construction on or after January 1, 1975, 20 minutes without recharging.

* * * * *

10. By adding a new § 34.20–10(e) to read as follows:

§ 34.20–10 Controls—T/ALL.

* * * * *

(e) Each deck foam system must be designed to be operational within 3 minutes of notification of a fire.

11. By adding a new § 34.20–15(g) to read as follows:

§ 34.20–15 Piping—T/ALL.

* * * * *

(g) Tankships of 100,000 deadweight tons or over and combination carriers of 50,000 deadweight tons or over, the keels of which are laid or which are at a similar stage of construction on or after January 1, 1975, must have at least one foam station on the port side and at least one foam station on the starboard side that are separated from each other by a distance equal to at least one-half the beam of the vessel. Both stations must be located at the house front, but aft of the pump room and cargo tanks.

12. By adding a new § 34.20–25 to read as follows:

§ 34.20–25 Foam monitor capacity—T/ALL.

The capacity of each foam monitor on ships, the keels of which are laid or which are at a similar stage of construction on or after January 1, 1975, must be at least 3 liters per minute per square meter (.073 gallons per minute per square foot) of deck area protected by that monitor.

13. By revoking and reserving § 32.55–40 as follows:

Subpart 32.55—Ventilation and Venting

§ 32.55–40 [Reserved]

Dated: April 16, 1975.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc.75–10332 Filed 4–18–75;8:45 am]

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 75–SO–36]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation regulations that would alter the Sumter, S.C., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before May 21, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 645, 3400 Whipple Street, East Point, Ga.

The Sumter transition area described in § 71.181 (40 FR 441) would be amended as follows: "* * * excluding the portion within Columbia transition area * * *" would be deleted and "* * * within 3 miles each side of the 028° bearing from Sumter RBN (Lat. 33°59'24" N., Long. 80°21'38" W.), extending from the 5-mile radius area to 8.5 miles northeast of the RBN; excluding the portion within the Columbia transition area * * *" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR aircraft executing the proposed NDB RWY 22 Instrument Approach Procedure to Sumter Municipal Airport, utilizing the Sumter (private) Nondirectional Radio Beacon.

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

Issued in East Point, Ga., on April 11, 1975.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.75–10280 Filed 4–18–75;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 221]

[EDR–282A, EDR–283A; Dockets 27590 and 27591; dated: April 15, 1975]

CONSTRUCTION, PUBLICATION, FILING, AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Supplemental Advance Notice of Proposed Rule Making, Baggage Delay and Loss Compensation

By Notice of Proposed Rule Making, EDR–282, dated March 6, 1975, and published at 40 FR 11602, March 12, 1975, the Board gave notice that it had under consideration a proposed amendment to Part 221 of its Economic Regulations (14 CFR Part 221) which would remove the authority to file tariffs imposing time limits on the filing of passenger claims for loss of, damage to, or delay in the delivery of baggage. In a related action, Advance Notice of Proposed Rule Making, EDR–283, dated March 6, 1975 and published at 40 FR 11601, March 12, 1975, the Board gave notice that it had under consideration the issuance of a Notice of Proposed Rule Making looking toward the adoption of a regulation prescribing liquidated damages for delay in the receipt of baggage and a minimum liability for loss of baggage.

Public comments on these proposals are due April 21, 1975. Counsel for the Air Transport Association of America

(ATA) has requested a 90-day extension of the above date. In support of this request, counsel states that the Board, "in instituting these proceedings, relied almost entirely upon the consumer files in the Board's Office of the Consumer Advocate relating to baggage 'complaints' for the period 1972-February 1975," and that in order to comment intelligently on the proposals, ATA staff must examine and analyze these letters which number more than 5,000.

Counsel for the National Air Carrier Association (NACA) has requested a 30-day extension in order to permit it to solicit the views and recommendations of its member carriers, and thereby make a joint presentation on behalf of those carriers. The Board's Office of the Consumer Advocate has also requested a 30-day extension to enable interested consumers and consumer groups to submit comments. The Board's Bureau of Economics responding to ATA's request, recommends a 45-day extension.

Upon consideration of the above requests, and the response thereto, the undersigned finds that good cause has been shown for an extension of the time for filing comments, but that a grant of ATA's requested 90-day extension would unnecessarily delay the proceedings.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's organization regulations, the undersigned hereby extends the time for submitting comments to June 2, 1975.[1] Procedures for review of this action by the Board are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

[SEAL] STEPHEN J. GROSS,
Acting Associate General Counsel, Rules and Rates.

[FR Doc.75-10374 Filed 4-18-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 359-5]

WASHINGTON

Approval and Disapproval of Compliance Schedules

Section 110 of the Clean Air Act, as amended, and the implementing regulations of 40 CFR Part 51, require each State to submit a plan which provides for the attainment and maintenance of national ambient air quality standards throughout the State. On May 31, 1972 (37 FR 10842), the Administrator of the Environmental Protection Agency (EPA) approved, with specific exceptions, A Plan for the Implementation, Maintenance and Enforcement of National Ambient Air Quality Standards in the State of Washington.

On June 17 and September 5, 1974, after proper notice and public hearing, the State of Washington Department of Ecology submitted for the Administrator's approval revisions to the compliance schedule portion of the State Implementation Plan, in accordance with 40 CFR 51.4 and 51.6 and 51.15. The Administrator, pursuant to Section 110 of the Clean Air Act and 40 CFR 51.8, is today proposing approval of ten compliance schedules and variances as plan revisions and proposing disapproval of two others which extend beyond the July 31, 1975, attainment date for national primary ambient air quality standards. The disapproval is being proposed because the information available for consideration fails to demonstrate that a final compliance date extension will not impact national ambient air quality standards within the applicable air quality control region.

Each compliance schedule establishes a new date by which an individual air pollution source must attain compliance with an emission limitation of the State Implementation Plan. This date is indicated in the following table under the heading "Final compliance date." In addition each compliance schedule which extends more than a year from the date of adoption must include federally enforceable increments of progress toward compliance as required by 40 CFR 51.15 (c). While the table below does not list those interim dates, the actual compliance schedules do. The "Effective date" column in the table refers to the date the compliance schedule becomes effective for purposes of federal enforcement. The "Date of adoption" column refers to the date that the State or local agency adopted the compliance schedules.

On April 9, 1974 (39 FR 12872), EPA invited public comment on the compliance schedules for the Crown Zellerbach Company at Port Angeles and the Puget Sound Plywood Company at Tacoma and on May 17, 1974 (39 FR 17566), public comment was invited on the compliance schedule for the Weyerhaeuser Company at Raymond. Public comment is again being invited on the compliance schedules for these sources because the State has submitted revisions to the previously submitted schedules which extend the final compliance dates.

An evaluation report will be prepared for each compliance schedule before the Administrator makes his final decision on whether to approve or disaprove the compliance schedule. During the review period, personnel in the EPA Regional Office, at the address noted below, are available to discuss the compliance schedules with the public. Each compliance schedule is available for public inspection at the EPA Regional Office, EPA Headquarters, the State agency and appropriate local agencies at the following addresses:

Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101

Freedom of Information Center
Environmental Protection Agency
401 M Street SW.
Washington, D.C. 20460

State of Washington
Department of Ecology
P.O. Box 829
Olympia, Washington 98504

Puget Sound Air Pollution Control Agency
410 West Harrison Street
Seattle, Washington 98119

Olympic Air Pollution Control Authority
120 East State Avenue
Olympia, Washington 98501

Spokane County Air Pollution Control Authority
N. 811 Jefferson
Spokane, Washington 99201

Douglas County Air Pollution Control Commission
Douglas County Courthouse
Waterville, Washington 98858

All interested persons are encouraged to submit written comments on whether the proposed revisions to the Washington Implementation Plan should be approved as required by Section 110 of the Clean Air Act, as amended, and 40 CFR 51.8. Comments postmarked on or before May 21, 1975 will be considered. Public comments received on the proposed revisions will be available for public inspection at the Regional Office and EPA Headquarters. Comments should be directed to the Regional Administrator, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Attention: Ms. S. Ziegman M/S 513.

(Sec. 110(a) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a)))

Dated: April 7, 1975.

C. V. SMITH, Jr.,
Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart WW—Washington

1. In § 52.2470, paragraph (c)(2) is revised as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) Supplemental information was submitted on: * * *

(2) December 12, 1972, July 31, 1973, and June 17 and September 5, 1974, by the State of Washington Department of Ecology.

2. Section 52.2481 is amended by adding the following lines to the table in paragraph (b) as follows:

§ 52.2481 Compliance schedules.

* * * * *

(b) The compliance schedules for the sources identified below are approved as meeting the requirements of §§ 51.6 and 51.15 of this chapter. All regulations cited are contained in the Washington Administrative Code (WAC), Title 18, unless otherwise noted.

[1] Contemporaneously with the Notice of Proposed Rule Making and Advance Notice of Proposed Rule Making supplemented herein, the Board issued a related Order to Show Cause (Order 75-3-18, March 6, 1975). By Notice dated April 11, 1975, the Chief Administrative Law Judge has extended to June 2, 1975, the due dates contained in that Order for: (1) objections to the Board's tentative findings and conclusions (ordering paragraph 2); (2) baggage claims data as set forth in Appendix A to the Order (ordering paragraph 3); and (3) claims manuals, etc., (ordering paragraph (4). Answers to the objections filed in accordance with the Order shall be due on or before June 23, 1975.

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
*	*	*	*	*	*
Bingen plywood fractionator, pneumatic conveyor.	Bingen	18-04-040(3)	July 30, 1974	Immediately	July 1, 1975.
Hanna Mining Co., 3 furnaces.	Rock Island	DCAPCC sec. 5.02 (1)(a)(b), regulation I.	Apr. 2, 1974	do	June 30, 1975.
Loth Lumber Co., Wigwam Burner.	Gold Bar	PSAPCA regulation I, sec. 9.02.	June 20, 1974	do	June 1, 1975.
Oakville Shake Co. Wigwam Burner.	Oakville	OAPCA regulation I, sec. 9.03.	July 16, 1974	do	July 1, 1975.
Pacific Cedar Mills, Wigwam Burner.	Axford Prairie	OAPCA regulation I, sec. 9.03.	do	do	June 1, 975.
Portage Creek Mill Co., Wigwam Burner.	Arlington	PSAPCA regulation I, sec. 9.02-9.05, 9.09, 9.15.	June 20, 1974	do	June 1, 1975.
Red Cedar products, Wigwam Burner.	Amanda Park	OAPCA regulation I, sec. 9.03.	Aug. 13, 1974	do	July 1, 1975.
Spokane Seed Co., grain processing.	Spokane	SCAPCA regulation I, sec. 6.05.	June 1, 1974	do	July 2, 1975.
Upland Cedar products, Wigwam Burner.	Neilton	OAPCA regulation I, sec. 9.03.	July 16, 1974	do	July 1, 1975.
Weyerhaeuser Co., boiler	Raymond	OAPCA regulation I, sec. 9.03, 9.05.	July 16, 1974	do	Do.

3. Section 52.2481 is amended by adding the following table in paragraph (c) as follows:

§ 52.2481 Compliance schedules.

* * * * *

(c) The compliance schedules for the sources identified below are disapproved as not meeting the requirements of § 51.15 of this chapter. All regulations cited are contained in the Washington Administrative Code (WAC), Title 18, unless otherwise noted.

Source	Location	Regulation involved	Date of adoption
Crown Zellerbach hogged fuel boilers.	Port Angeles	OAPCA regulation I, sec. 9.03, 9.05	Aug. 13, 1974
Puget Sound Plywood Co., hogged fuel boilers.	Tacoma	PSAPCA regulation I, sec. 9.03, 9.09	Sept. 12, 1973

[FR Doc.75-10266 Filed 4-18-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20422]

FM BROADCAST STATIONS

Table of Assignments, Fla.

1. *Petitioners, proposals and comments. Petitioners:* White Sands Broadcasting Company (White Sands); John Matkowski; Vacationland Broadcasting Company (Vacationland), licensee of WFTW(AM) and WFTW-FM (Channel 257A), both operating in Fort Walton Beach, Florida; Holly A. Rogers; and Crestview Broadcasting Company (Crestview B/C), licensee of Stations WJSB (AM) and WAAZ-FM (Channel 285A), both operating in Crestview, Florida.

Proposals: (a) White Sands proposes the assignment of Channel 221A to Fort Walton Beach, Florida (RM-2395). The assignment may be made without affecting any existing assignments but the transmitter site must be situated 5 miles northwest of the city. A recent grant of a construction permit (BPH-8749) to Station WPAP-FM, Channel 223, Panama City, Florida, relocating its transmitter site, would allow Channel 221A to be sited within the city or to an area east of the city.

(b) John Matkowski petitions for the assignment of Channel 243 to Destin, Florida, as a first FM channel in that community (RM-2421). This channel may be assigned without affecting any existing assignments.

(c) The assignment of Channel 243 to Fort Walton Beach, Florida, has been requested by Vacationland (RM-2457) and Holly A. Rogers (RM-2471). Additionally, Vacationland suggests that Channel 257A which it presently occupies at Fort Walton Beach could be deleted and reassigned to Destin, Florida. These channels may be assigned as proposed without affecting any existing assignments.

(d) Finally, Crestview B/C proposes the assignment of Channel 243 to Crestview, Florida, deletion of Channel 285A which it presently occupies at Crestview and its reassignment to Destin (RM-2503). These channels may be assigned as proposed but the transmitter site for operation on Channel 243 would have to be situated 7 miles west, southwest of Crestview.

Comments: In addition to the petitions and comments filed by the aforementioned parties, oppositions to the various proposals have also been filed by the Deltona Broadcasting Company, licensee of Station WPAP-FM, Channel 223, Panama City, Florida; and the Janus Broadcasting Company, licensee of Stations WGNE-AM and WGNE-FM, Channel 253, Panama City, Florida.[1]

2. *Demographic Data, Locations and populations:* Fort Walton Beach (pop. 19,994),[2] is located in Okaloosa County (pop. 88,187) about 38 miles east of Pensacola, 160 miles west of Tallahassee, and 60 miles northwest of Panama City. Destin (pop. 1,536) is an unincorporated community in Okaloosa County about 6 miles east of Fort Walton Beach. Crestview (pop. 7,952) is the seat of Okaloosa County located 24 miles north of Fort Walton Beach, 45 miles northeast of Pensacola, Florida, and 115 miles south of Montgomery, Alabama.

Present aural services: Fort Walton Beach is served by two AM stations—WNUE (Class IV) and WFTW (Class III, daytime-only) and one FM station, WFTW-FM, Channel 257A. Crestview is served by AM Station WCNU (Class II, daytime-only) and FM Station WAAZ-FM, Channel 285A. Destin has no local aural services.

Other Demographic Data: Fort Walton Beach is a resort area and the home of many employees of nearby Eglin Air Force Base, the largest air force facility in the world. Fort Walton Beach is also recognized as a commercial center for the area and construction of a 70-store shopping mall is underway. Destin is also a tourist spot and part of the area's commercial base. Crestview is the county seat and although not a tourist area or as fast-growing a community as are Fort Walton Beach and Destin, it does have many manufacturing and business concerns.

3. *Preclusion Considerations:* (a) The assignment of Channel 243 to either Fort Walton Beach, Destin or Crestview (RMs-2457, 2421, 2471, and 2503) would cause preclusion on the same three channels: Channels 240A, 244A, and co-channel 243. In each case the preclusive impact is minor and alternate channels are available. For example, (1) Channels 292A and 261A are available for assignment in much of the Channel 240A preclusion area; (2) co-channel preclusion occurring on Channel 243 can be alleviated in the proposed area of service (assuming utilization of the locations specified in the petitions) by the assignment of Channel 243 to any of the three communities. Also if Channel 243 were assigned to Crestview and Channel 285A were deleted there, then Channel 285A could be used as an available alternate channel in the precluded area; (3) preclusion occurring on Channel 244 resulting from the assignment of Channel 243 to Crestview would affect two communities in Alabama with populations between 1,000 and 2,000. However, Channel 272A is available for assignment in this area. Assuming assignment of Channel 243 to Fort Walton Beach or Destin, preclusion on Channel 244A would effect a small area in Alabama containing no communities with populations exceeding 1,000 and a larger area in Florida around Apalachicola (southeast of Panama City). There would be several Class A stations available for assignment in the area precluded in Florida, including Channels 261A, 292A, and 296A. It is noted that Channels 261A and 292A are also available for use in this same affected area where Channel 240A is precluded as aforementioned.

[1] A "Reply to Oppositions to Petitions for Rule Making" was submitted by Crestview Broadcasting.

[2] All population figures are taken from the 1970 Census.

(b) The proposal to assign Channel 221A to Fort Walton Beach (RM-2395) results in preclusion occurring on noncommercial educational Channels 218, 219, and 220 and on co-channel 221A. Since the Grade B contour of the nearest Channel 6 television station is far enough removed from this area, lower educational channels should be available for use.

4. *Proposed Service.* The Crestview B/C *Roanoke Rapids-Goldsboro, North Carolina,* (9 F.C.C. 2d 672 (1967)) showing indicates that assignment of Channel 243 to Crestview, operating with 100 kW at an antenna height of 500 feet AAT, will offer: (a) a first FM service to 525 persons in a 98-square-mile area; and (b) a second FM service to 30,461 persons in a 820 square-mile area. The staff analyzed proposed first and second FM services for assignment of Channel 243 to either Fort Walton Beach or Destin after determining that the showings offered by the other petitioners were either inaccurate or unreliable. It was found that the first FM service would be the same as that offered by the proposed Crestview assignment, while proposed second FM service would be significantly less. We note however that it is possible for a Destin or Fort Walton Beach assignment, with operating facilities close to Crestview, to offer the same first and second FM services and still meet community coverage requirements.

5. *Comments.* Most of the oppositions filed in this consolidated proceeding protest the proposed assignment of Channel 243 to any of the three suggested cities.[1] Instead of responding to each of the contentions set forth by the various parties, a few general comments will suffice. At the outset, we note that Fort Walton Beach does represent the population center of Okaloosa County and is a fast growing center but a Class A channel can certainly cover its population area. We agree with Crestview B/C that a more efficient use of the FM Table of Assignments would employ a site that could cover a large area of land. A Class C assignment at Fort Walton Beach or Destin would result in a large part of the contour extending over water. Although a site could be obtained that would eliminate this problem, assignment of a Class C channel to South Okaloosa County would result in intermixture either actual or practical. We feel that our policy of avoiding intermixture when possible is paramount in this proceeding especially since Class A channels are available in this area. The proximity of Destin to Fort Walton Beach, no matter which city were assigned a Class C channel, would result in a situation that our policy is designed to prevent. *Fairmont, West Virginia,* 40 F.C.C. 1021, 1024 (1965). In Fairmont, the petitioner requested that one of two unoccupied Class A channels be deleted and a Class C channel be assigned to Fairmont in order to enable Fairmont to compete with Class C channels operating in Clarksburg and Morgantown 15 miles and 18 miles distant, respectively. The Commission considered the three cities as encompassing one *market* and ordered de-intermixture of the *market* by assigning the Class C channel to Fairmont. The Commission stated, at p. 1024 "[w]e have noted the size of the three communities and their close proximity, and are of the view that there is some substance to the claim that a limited-coverage operation at Fairmont would be at a disadvantage in competing with nearby wide-coverage operations in Morgantown and Clarksburg in respect to the ability to attract regional and national advertisers." We feel that an analogous situation appears here. Destin and Fort Walton Beach are only 6 miles apart. If a Class C channel were assigned to either Fort Walton Beach or Destin, the market area would be intermixed due to the existence of the Class A channel operating at Fort Walton Beach. Although the Class A channel could be deleted from Fort Walton Beach and reassigned to Destin as petitioner Vacationland suggests (RM-2457), the market area would still contain a mixture of classes of channels. Therefore we favor the proposed assignment of Channel 243 to Crestview along with the proposed deletion of Channel 285A instead of the proposed assignment of Channel 243 to the Fort Walton Beach-Destin area. We note that since the proposal to assign a Class C channel at Crestview and to delete its Class A channel was made by the licensee of the Class A channel, no order to show cause will be necessary in the proceeding since that licensee may be considered to have consented to modification of its license. Thus, we further propose to assign Channel 285A to Destin and request that John Matkowski express an intention as to whether he would apply for that channel if assigned. Further we can in conformity with this proposal assign Channel 221A (RM-2395) to Fort Walton Beach as proposed by White Sands. We further note that the petitioners for a Class C channel in Crestview and a Class A channel in Fort Walton Beach have expressed their intentions to apply for the proposed channels if assigned.

6. Accordingly, the Commission proposes to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments as follows:

City	Channel No.	
	Present	Proposed
Crestview, Fla	285A	243
Fort Walton Beach, Fla	257A	221A, 257A
Destin, Fla		285A

7. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated into this Notice of Proposed Rule Making.

8. Interested parties may file comments on or before May 27, 1975, and reply comments on or before June 16, 1975.

Adopted: April 1, 1975.

Released: April 8, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's

[1] Compromises have been offered by Vacationland and Crestview B/C to delete the Class A assignments that they each presently occupy in their respective communities in order to permit each of them to apply for the Class C channel replacements that they propose for assignment.

Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.75-10138 Filed 4-18-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 205 and 211]

AIR PASSENGER TRANSPORTATION SERVICES

Notice of Proposed Rulemaking and Public Hearing

The Federal Energy Administration hereby gives notice of a proposal to amend Parts 205 and 211, Chapter II, Title 10, Code of Federal Regulations, to include air facilities and services in the definition of "Passenger transportation services", to clarify the filing procedures for air taxi/commercial operators and to delete reference to the term "public air carriers". FEA also gives notice that it will hold a public hearing on the proposed amendments.

With respect to the inclusion of air facilities and services as passenger transportation services, this amendment is proposed in order to assure firms providing air passenger transportation services access to refined petroleum products other than aviation fuels on the same basis as firms providing surface transportation for passengers. Air carriers have generally anticipated a potential disadvantage in access to lubricants and greases allocated under Subpart K of Part 211 because the current definition of "Passenger transportation services" includes only surface transportation, thus limiting air carriers which transport passengers to an allocation level expressed in terms of a percentage of base period use rather than current requirements. The proposed revision would, therefore, provide an allocation level of one hundred percent of current requirements, as reduced by application of an allocation fraction, for air facilities and services for carrying passengers using any allocated product, other than aviation fuels, for which a "Passenger transportation services" allocation level is provided.

The current allocation program for aviation fuels allocates to civil air carriers generally by type of carrier rather than by use. Accordingly, there is no allocation level for aviation fuel used for passenger transportation services. Instead, aviation fuels are allocated to "Domestic supplemental, and scheduled cargo air carriers," "Local service air carriers," etc. The proposed revision therefore will not affect the current method of allocating aviation fuels and is intended only to provide the same allocation level for surface and air carriers of passengers for those products which are provided with an allocation level for "Passenger transportation services". Thus, the subparts potentially affected by the proposal would be Subpart D (Propane), Subpart E (Butane and Natural Gasoline), Subpart F (Motor Gasoline), Subpart G (Middle Distillate), Subpart I (Residual Fuel Oil) and Subpart K (Other Products).

FEA also proposes to amend § 205.13 (a) (5) to remove an inconsistency in the filing procedures for air taxi/commercial operators and to delete the reference therein to "public air carriers". The proposed amendment would exempt air taxi/commercial operators from the general requirement in § 205.13(a) (5) that civil air carriers file all documents with the FEA National Office. This would eliminate an inconsistency with § 211.147 which requires air taxi/commercial operators to file with the appropriate FEA Regional Office. The proposed amendment would also delete the reference in § 205.13(a) (5) to "public air carriers" since that term is not defined or used elsewhere in FEA regulations.

As required by section 7(c) (2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice was submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

The public hearing in this proceeding will be held beginning at 9:30 a.m., on Thursday, May 22, 1975, in Room 2105, 2000 M Street NW., Washington, D.C., to receive comments from interested persons on the matters set forth herein. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.d.t. May 13, 1975. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW, Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through May 21, 1975. Each person selected to be heard will be so notified by the FEA before 5:30 p.m., e.d.t. May 20, 1975 and must submit 100 copies of his or her statement to Allocation Regulation Development, FEA, Room 2214, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m., e.d.t., May 21, 1975.

The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested persons may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, Room 3309, FEA, before 4:30 p.m., e.d.t. May 20, 1975. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Administrator's Reception Area of FEA, Room 3400, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may buy a copy of the transcript from the reporter.

Interested persons are invited to participate in this rulemaking by submitting written comments and other data with respect to the proposed regulations to Executive Communications, Room 3309, Federal Energy Administration, Box CR, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Passenger Transportation Services." Fifteen copies should be submitted. All comments received by 4:30 p.m. May 16, 1975, and all other relevant information will be considered by the FEA before final action is taken on the proposed regulation.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing in accordance with the procedures stated in 10 CFR 205.9(f). FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 93-511; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, it is proposed to amend Parts 205 and 211, Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., April 17, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

1. Section 205.13 is amended by revising subparagraph (5) of paragraph (a) to read as follows:

§ 205.13 Where to file.

(a) * * *

(5) The allocation and pricing of aviation fuel pursuant to Subpart H of Part 211 and Part 212 of this Chapter, filed by civil air carriers (except air taxi/commercial operators); * * *

(2) Section 211.51 is amended by revising the definition of "Passenger transportation services" to read as follows:

§ 211.51 General definitions.

* * * * *

"Passenger transportation services" means (a) facilities and services, including air, water and rail, for carrying passengers whether publicly or privately owned, including tour and charter buses and taxicabs which serve the general public; and (b) bus transportation of pupils to and from school and school sponsored activities.

* * * * *

[FR Doc.75-10495 Filed 4-17-75;4:37 am]

notices

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 275]

COMMERCE IN EXPLOSIVES

Explosives List

Pursuant to the provisions of section 841(d) of Title 18, United States Code, and 27 CFR 181.23, the Director, Bureau of Alcohol, Tobacco and Firearms, must publish and revise at least annually in the FEDERAL REGISTER a list of explosives determined to be within the coverage of 18 U.S.C., Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials. This revised list supersedes the Explosives List dated April 2, 1974 (39 FR 12039).

The following is the 1975 Explosives List required to be so published, and is intended to also include any and all explosive mixtures containing any of the materials on the list. While the list is comprehensive, it is *not* all inclusive. The fact that an explosive material may not be on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in section 841 of Title 18, United States Code. Explosive compounds are listed alphabetically by their common names followed by chemical names and synonyms in brackets.

EXPLOSIVES LIST

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures.
Aromatic nitro-explosive mixture.
Ammonium perchlorate having particle size less than 45 microns.
Ammonium perchlorate composite propellant.
Ammonium picrate [picrate of ammonia].
Ammonium salt lattice with isomorphously substituted inorganic salts.
ANFO [ammonium nitrate-fuel oil].

B

BEAF [1,2-bis (2,2-difluoro-2-nitroacetoxyethane)].
Black powder.
Blasting agents, nitro-carbo-nitrates, including slurry and water-gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,3,4 butanetriol trinitrate].
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Carboxy-terminated propellant.
Cellulose hexanitrate explosive mixture.
Chlorates and red phosphorus mixture.
Chlorates and sulphur mixture.
Copper acetylide.
Crystalline picrate with lead azide explosive mixture.
Cyanuric triazide.
Cyclonite [RDX].
Cyclotetramethylenetrinitramine.

D

DATB [diaminotrinitrotetramethylene tetranitramine].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Delay powders.
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine.
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
Dipicryl sulfone.
Dipicrylamine.
DNDP [dinitropentano nitrile].
DNPA [2,2-dinitropropyl acrylate].
Dynamite.

E

EDNP [ethyl 4,4-dinitropentanoate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
EGDN [ethylene glycol dinitrate].
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive mixtures containing oxygen releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive liquids.
Explosive powders.

F

FEFO [bis(2,2-dinitro-2-fluoroethyl)].
Fulminate of mercury.
Fulminate of silver.
Fuminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hevanitrodiphylamine.
Hexanitrostilbene.
Hexogen [RDX].
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMX [cyclo-1,3,5,7-tetramethylene-2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate.
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.

K

KDBNF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitrates of soda explosive mixtures.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol.
Nitroguanidine explosives.
Nitronium perchlorate propellant mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.
Organic peroxides.

P

Pellet powder.
Penthrinite composition.

Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid.
Picryl chloride.
Picryl fluoride.
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitroaminotetrazole.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5-trimethylene - 3,4,6-trinitramine; hexahydro-1,3,5-trinitro-5-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel and sensitizer.
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium dinitro-ortho-cresolate.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid.

T

Tacot [tetranitro - 2,3,5,6-dibenzo-1,3a,4,6a-tetrazapentalene].
TEGDN [triethylene glycol dinitrate].
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetranitrocarbaxole.
Tetranitromethane explosive mixtures.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN [trimethylolethane trinitrate].
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethyl orthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthene trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates.

X

Xanthamonas hydrophilic colloid explosive mixture.

Dated: April 14, 1975.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.75-10097 Filed 4-18-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SYSTEMS MANAGEMENT SCHOOL

Notice of Board of Visitors Meeting

A meeting of the Board of Visitors of the Defense Systems Management School will be held in the Commandant's Conference Room, Building 202, at Fort Belvoir, Virginia, on Wednesday, May 7, 1975, from 9:00 a.m. to 12:00 noon. The agenda will include reports on the DSMS expansion plans, status reports on the Executive Management and Program Management Courses, and discussion of educational policies and methods. The meeting is open to the public with limitations on space available for observers requiring allocation on a first-come, first-served basis. Persons desiring to attend should call the school (664-1314) to reserve space as far in advance as possible.

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

APRIL 16, 1975.

[FR Doc.75-10298 Filed 4-18-75;8:45 am]

DEPARTMENT OF JUSTICE

FEDERAL ADVISORY COMMITTEE ON FALSE IDENTIFICATION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 5 USC Appendix I) that the Seventh meeting of the Federal Advisory Committee on False Identification will be held at 10 a.m., Thursday, May 8, 1975, at the Briefing and Conference Center of the Department of Justice (opposite Room 1315), 10th and Constitution Avenue NW., Washington, D.C.

The Committee was established by the Attorney General to study the criminal use of false identification at Federal, state and local levels and to recommend measures to prevent the criminal use of false identification and the obtaining of fraudulent identification documents.

At the Seventh meeting the Committee's five Task Forces will continue to examine the scope of the false identification problem in the following areas: Government payments, commercial transactions, fugitives, Federal identification documents, and state and local identification documents. Each area will be studied with emphasis on: (1) The number of cases in which member agencies or organizations are victimized by false identification; (2) the dollar impact of using false identification; (3) social and other costs of the criminal use of false identification; (4) false identification techniques and (5) user and victim profiles.

Surveys and data collected on the scope of the false identification problem will be reviewed by the Task Forces and further studies will be recommended where appropriate.

The meeting, which will adjourn at approximately 3:30 p.m., is open to the public, and the Committee welcomes a broad spectrum of ideas from the public in its efforts to increase individual privacy in identification systems and to prevent the criminal use of false identification.

Further information concerning this meeting may be obtained from David J. Muchow, General Crimes Section, Criminal Division, Department of Justice, Room 402, Federal Triangle Building, 315 9th Street NW., Washington, D.C. 20530; telephone: area code 202-739-2745. Minutes of the meeting will be available for public inspection two weeks after the meeting in Room 402, Federal Triangle Building.

JOHN C. KEENEY,
Acting Assistant Attorney General.

[FR Doc.75-10447 Filed 4-18-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 25106 and 25109]

NEW MEXICO

Notice of Applications

APRIL 11, 1975.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for two 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 5 W.,
Sec. 6, SW¼NW¼, W½SW¼;
Sec. 21, W½NE¼.

These pipelines will convey natural gas across .624 miles of national resource lands in Rio Arriba County.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, 3550 Pan American Freeway, NE, Albuquerque, NM 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-10316 Filed 4-18-75;8:45 am]

Fish and Wildlife Service

RILEY D. PATTERSON ET AL.

Receipt of Endangered Species Permit Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicants: Riley D. Patterson, Richard C. Melton, James E. Tilley; U.S. Fish and Wildlife Service, Animal Damage Control, Federal Building—Room E-2717, 2800 Cottage Way, Sacramento, California 95825.

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
There is a possibility that diseased or rabid San Joaquin kit foxes may have to be captured within the rabies epizootic area in Santa Barbara County, California beyond March 28, 1975 when the Memorandum of Understanding between the State Dept. of Fish and Game, State Department of Health, U. S. Fish and Wildlife Service and the County of Santa Barbara expires. (Over)

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
RILEY D. PATTERSON

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

☒ MR. ☐ MRS. ☐ MISS ☐ MS.	HEIGHT 6'2-1/2"	WEIGHT 180 lbs.
DATE OF BIRTH April 10, 1917	COLOR HAIR Gray	COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 805 323 7676	SOCIAL SECURITY NUMBER 546121251	

OCCUPATION (District Supervisor)
Supervisory Wildlife Biologist

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Department of the Interior
U. S. Fish and Wildlife Service
California Program of Animal Damage Control

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
U. S. Fish and Wildlife Service
Animal Damage Control
Room E2717 Federal Building
2800 Cottage Way
Sacramento, Califor-ia 95825

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 916 484-4551
Malcolm M. Allison, State Supervisor

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Santa Barbara County, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit number)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF

10. DESIRED EFFECTIVE DATE March 29, 1975-Dec. 31, 1975

11. DURATION NEEDED 8 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) R. D. Patterson — DATE 2-8-75

3-200
10/74

Riley D. Patterson

No. 2 — Continued

San Joaquin kit foxes may also be trapped incidental to the capture or other wildlife vector species, chiefly the striped skunk (See attached correspondence).

OMB NO. 42-R1670

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
There is a possibility that diseased or rabid San Joaquin kit foxes may have to be captured within the rabies epizootic area in Santa Barbara County, California beyond March 28, 1975 when the Memorandum of Understanding between the State Dept. of Fish and Game, State Department of Health, U. S. Fish and Wildlife Service and the County of Santa Barbara expires. (Over)

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
RICHARD C. MELTON

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:

	HEIGHT	WEIGHT
☒ MR. ☐ MRS. ☐ MISS ☐ MS.	5'8"	140 lb.
DATE OF BIRTH: 7-12-1955	COLOR HAIR: Blond	COLOR EYES: Green
PHONE NUMBER WHERE EMPLOYED	SOCIAL SECURITY NUMBER: 561-90-7235	

OCCUPATION: District Field Assistant

ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT:
Department of the Interior
U. S. Fish and Wildlife Service
California Program of Animal Damage Control

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
U. S. Fish and Wildlife Service
Animal Damage Control
Room E2717 Federal Building
2800 Cottage Way
Sacramento, California 95825

NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 916 484-4551
Malcolm N. Allison, State Supervisor

IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Santa Barbara County, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE: March 29, 1975-Dec. 31, 1975

11. DURATION NEEDED: 8 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(a)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) Richard C. Melton
DATE 2/9/75

3-200
10/70

No. 2 — Continued

San Joaquin kit foxes may also be trapped incidental to the capture or other wildlife vector species, chiefly the striped skunk (See attached correspondence).

OMB NO. 42-R1570

DEPARTMENT OF THE INTERIOR
U.S. FISH AND WILDLIFE SERVICE

FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION

1. APPLICATION FOR (Indicate only one)
☐ IMPORT OR EXPORT LICENSE ☒ PERMIT

2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED.
There is a possibility that diseased or rabid San Joaquin kit foxes may have to be captured within the rabies epizootic area in Santa Barbara County, California beyond March 28, 1975 when the Memorandum of Understanding between the State Dept. of Fish and Game, State Department of Health, U. S. Fish and Wildlife Service and the County of Santa Barbara expires. (Over)

3. APPLICANT. (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested)
JAMES E. TILLEY

4. IF "APPLICANT" IS AN INDIVIDUAL, COMPLETE THE FOLLOWING:
☒ MR. ☐ MRS. ☐ MISS ☐ MS. | HEIGHT 6' | WEIGHT 200
DATE OF BIRTH | COLOR HAIR Dr. Br. | COLOR EYES Blue
PHONE NUMBER WHERE EMPLOYED 805 366-5870 | SOCIAL SECURITY NUMBER 567-38-5394
OCCUPATION
District Field Assistant
ANY BUSINESS, AGENCY, OR INSTITUTIONAL AFFILIATION HAVING TO DO WITH THE WILDLIFE TO BE COVERED BY THIS LICENSE/PERMIT
Department of the Interior
U. S. Fish and Wildlife Service
California Program of Animal Damage Control

5. IF "APPLICANT" IS A BUSINESS, CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING:
EXPLAIN TYPE OR KIND OF BUSINESS, AGENCY, OR INSTITUTION
U. S. Fish and Wildlife Service
Animal Damage Control
Room E2717 Federal Building
2800 Cottage Way
Sacramento, California 95825
NAME, TITLE, AND PHONE NUMBER OF PRESIDENT, PRINCIPAL OFFICER, DIRECTOR, ETC. 916 484-4551
Malcolm N. Allison, State Supervisor
IF "APPLICANT" IS A CORPORATION, INDICATE STATE IN WHICH INCORPORATED

6. LOCATION WHERE PROPOSED ACTIVITY IS TO BE CONDUCTED
Santa Barbara County, California

7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT ☐ YES ☒ NO
(If yes, list license or permit numbers)

8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? ☐ YES ☒ NO
(If yes, list jurisdictions and type of documents)

9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF
$

10. DESIRED EFFECTIVE DATE March 29, 1975-Dec. 31, 1975

11. DURATION NEEDED 8 months

12. ATTACHMENTS. THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 13.12(b)) MUST BE ATTACHED, IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST SECTIONS OF 50 CFR UNDER WHICH ATTACHMENTS ARE PROVIDED.

CERTIFICATION

I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001.

SIGNATURE (In ink) James E. Tilley | DATE 2-7-75

3-200
10/74

No. 2 — Continued

San Joaquin kit foxes may also be trapped incidental to the capture or other wildlife vector species, chiefly the striped skunk (See attached correspondence).

U.S. FISH AND WILDLIFE SERVICE

MEMORANDUM

JANUARY 23, 1975.

To: Regional Director, Portland, Oregon (ADC).
From: State Supervisor, Animal Damage Control, Sacramento, California.
Subject: Endangered Species Act of 1973—Permit Requirements for Federal Personnel.

Reference is made to the telephone conversations we have had on this subject due to the wildlife rabies program that we are conducting in Santa Barbara County in cooperation with that county, the California Department of Health and the California Department of Food and Agriculture.

The problem is that we may capture an endangered San Joaquin kit fox while attempting to capture rabid grey foxes. One grey fox attacked a man in his sleeping bag at the Bates Canyon Campground, Los Padres National Forest, near Cuyama, which is approximately 39 miles northeast of the Santa Ynez epizootic area and less than one mile from the described range of the San Joaquin kit fox.

This program began as an emergency program in August, 1974, and will continue until March 28, 1975. At that time the State and County Health Departments will determine whether it will be necessary to continue the program. Should the decision be to continue, we want to be in a position to comply with the Endangered Species Act. On that date we feel sure that it would be a violation of the Endangered Species Act of 1973 to continue the work without receiving a blanket permit for our personnel or a permit for each employee engaged in the work. The Departments of Health and Food and Agriculture share our feelings in this respect.

We quote from Director Greenwalt's memorandum of June 28, 1974: *"The law provides no special exception for Bureau Personnel.* If, in the course of your official duties or otherwise, you have need to engage in any of the activities described above you *must* apply for and receive a permit." As you recommended, we discussed permit requirements regarding Mr. Greenwalt's memorandum with Charles Graham, Law Enforcement, and he feels a permit is definitely needed after March 28, 1975.

In view of the lengthy review of permit applications required by law, it appears wise to anticipate the continuance of the Santa Barbara program and apply for a permit at once. If the review process is not completed by March 28, 1975, this cooperative management program could be continued under a letter of permission as provided for in Director Greenwalt's Law Enforcement Memorandum No. 20 dated November 18, 1974.

Please advise if you agree with us.

MALCOLM N. ALLISON.

STATE OF CALIFORNIA—RESOURCES AGENCY

DEPARTMENT OF FISH AND GAME

1416 NINTH STREET, SACRAMENTO, CALIFORNIA 95814

DECEMBER 18, 1974.

Mr. CHARLES CATTERLIN,
Chairman, Santa Barbara Board of Supervisors, 105 East Anapamu, Santa Barbara, California 93101.

Enclosed, Mr. CATTERLIN—is a Memorandum of Understanding between this Department, U.S. Fish and Wildlife Service, State Department of Health and County of Santa Barbara relating to the San Joaquin kit fox—rabies problem in Santa Barbara County.

We would appreciate the concurrence of Santa Barbara County. If you will sign the enclosed copies and return one to this office, we will finalize the agreement with the U.S. Fish and Wildlife Service. We suggest that you forward to your county health director and Dr. John B. Carricaburu copies of the Memorandum of Understanding so that there is no delay in carrying through with the rabies suppression program in Santa Barbara.

If you have any questions, feel free to contact my office.

Sincerely,

(*Director*)

MEMORANDUM OF UNDERSTANDING BY AND BETWEEN U.S. FISH AND WILDLIFE SERVICE, STATE DEPARTMENT OF HEALTH, COUNTY OF SANTA BARBARA AND DEPARTMENT OF FISH AND GAME, RELATING TO THE SAN JOAQUIN KIT FOX

WITNESSETH

Whereas, the California Fish and Game Commission, pursuant to the California Endangered Species Act of 1970, has declared the San Joaquin kit fox rare and has prohibited taking it except under authority granted by the Department;

Whereas, an epidemic of rabies in wildlife has prompted the Santa Barbara County Board of Supervisors to declare a state of emergency;

Whereas, the U.S. Fish and Wildlife Service is supervising and administering an animal damage control program under guidance of County and State Health authorities directed toward the reduction of wildlife rabies;

Whereas, the San Joaquin kit fox exists within the rabies control area in Santa Barbara County and may be host to the disease;

Now, Therefore, it is mutually agreed and understood as follows:

1. Prior to the initiation of control measures within specific areas within the range of the San Joaquin kit fox, as shown in the attached exhibit, determination be made by the animal control agent of the presence or absence of kit foxes.

2. Control measures undertaken within a mile radius of known kit fox occurrence, as shown in the attached exhibit or as determined by above investigation, be done in such a manner to preclude the taking of kit foxes.

3. San Joaquin kit foxes found displaying suspected symptoms of rabies may be taken for diagnostic purposes by control agents.

4. Suspected diseased carcasses, including the head, shall be delivered to: Dr. John B. Carricaburu, Santa Barbara County Veterinarian, 2851 Baseline Avenue, Santa Ynez, California.

5. The Department of Fish and Game, Disease Section, 987 Jedsmith Drive, Sacramento 95819, shall be notified immediately by Dr. Carricaburu of receipt of a San Joaquin kit fox. If found not to be rabid, the head and carcass shall be frozen and released to a Department representative for shipment to Dr. Murray Fowler, School of Veterinary Medicine, University of California, Davis, for further diagnostic work.

Furthermore, it is understood that if a situation develops wherein a kit fox attacks a person or a domestic animal the affected animal may be taken for rabies diagnosis. Unless terminated sooner by either party of this understanding giving thirty days prior written notice of earlier termination, this agreement shall commence on the date hereof and shall end March 28, 1976.

EDWARD J. SMITH,
Acting Regional Director,
U.S. Fish and Wildlife Service.

DAVID A. WINSTON,
Acting Director,
California Department of Health.

E. C. FULLERTON,
Acting Director, California
Department of Fish and Game.

Dated: February 3, 1975.

FRANCIS H. BEATTIE,
Chairman, Santa Barbara
Board of Supervisors.

Attest.
HOWARD C. MENZEL,
County Clerk-Recorder.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before May 21, 1975 will be considered.

Dated: April 11, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law
Enforcement, U.S. Fish and
Wildlife Service.

[FR Doc.75-10090 Filed 4-18-75;8:45 am]

TEXAS PARKS AND WILDLIFE DEPARTMENT

Receipt of Endangered Species Permit Application

Notice is hereby given that the following application for a permit is deemed to have been received under section 10 of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Texas Parks and Wildlife Department, John H. Reagan Bldg., Austin, Tex. 78701. Mr. Clayton T. Garrison, Executive Director.

PARKS AND WILDLIFE DEPARTMENT

FEBRUARY 14, 1975.

Mr. LYNN A. GREENWALT, *Director,*
U.S. Fish and Wildlife Service,
Washington, D.C. 20240

DEAR MR. GREENWALT: This is in reference to your letter of November 7, 1974, which solicited this Department's submission of an application for an endangered species permit for the control of nuisance alligators and for the conduct of appropriate management practices.

The Texas Parks and Wildlife Department has a comprehensive research and management program for other endangered species in addition to the alligator. These programs are necessary to help insure the survival of these species within the State's boundaries. To continue these programs, a permit covering endangered species in Texas will be required to comply with provisions of the Endangered Species Act of 1973.

Under the authority given the Secretary in Section 10(a) of the Endangered Species Act of 1973, I respectfully request an Endangered Species Permit be issued in my name on behalf of the Texas Parks and Wildlife Department.

Pertinent information to support our application for a permit to fulfill requirements under 50 CFR 13, Subsection 13.12, are attached.

Your early consideration of this application for an Endangered Species Permit will be appreciated.

Sincerely,

CLAYTON T. GARRISON,
Executive Director,
Texas Parks and Wildlife Department.

APPLICATION FOR ENDANGERED SPECIES PERMIT

TEXAS PARKS AND WILDLIFE DEPARTMENT

1. The applicant's name, mailing address and phone number are Clayton T. Garrison, Executive Director, Texas Parks and Wildlife Department, John H. Reagan State Office Building, Austin, Texas 78701; phone number 475-3117 AC 512.

2. N/A.

3. The name and address of the principal officer is Mr. Clayton T. Garrison, Executive Director, Texas Parks and Wildlife Department, John H. Reagan Building, Austin, Texas 78701.

4. The location where the permitted activity is to be conducted is the State of Texas.

5. Federal Aid contracts in the form of current Program Narratives for Projects W-100-R, Attwater's Prairie Chicken, and W-103-R, Nongame Wildlife Investigations, are attached to serve as supporting as well as justifying documents to this permit application.

6. The activity planned under this permit application does not include the importation of endangered species from any foreign country.

7. I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

8. The desired effective date of the permit to be April 1, 1975.

9. Submitted this Date, February 11, 1975.

10. Clayton T. Garrison.

11. Species information relevant to processing this application to fulfill requirements of 50 CFR 17, Subsection 17.23(a), follows:

(1) Common and scientific names of species to be covered.

a. Black-footed ferret—*Mustela nigripes.*

A survey of prairie dog towns in the Texas Panhandle and Lower Plains will be initiated in February 1975 to determine the status of the black-footed ferrets.

b. Attwater's Prairie Chicken—*Tympanuchus cupido attwateri.* An approved Federal Aid project, W-100-R, was initiated in 1969. To date, status and life history data on the Attwater's prairie chicken have been accumulated. Research to provide a semi-tame broodstock will be initiated in 1975. Studies of movements and habitat requirements of Attwater's prairie chickens within the Texas ricebelt will be continued during 1975.

c. Southern bald eagles (*Haliaeetus l. leucocephalus*).

A southern bald eagle nesting survey was initiated in 1969 to determine nesting population and nesting success each year. This survey will be continued during 1975.

d. Arctic peregrine falcon (*Falco peregrinus tundrius*).

Surveys of the fall migration have been made since 1972 to determine population trends and migration peaks. Some will be trapped and transmittered to determine daily movements and habits.

e. American peregrine falcon (*Falco peregrinus anatum*).

Surveys will be initiated in 1975 to locate and determine numbers of active eyries, breeding population and nesting success.

f. Red-cockaded woodpecker (*Dendrocopos borealis*).

A continuing trapping and color-banding program was initiated in 1969 to monitor movements, habits and habitat requirements of the red-cockaded woodpecker. Efforts will be made to determine why birds select certain trees; the causes and rate of tree mortality; and management implications.

g. American alligator (*Alligator mississipiensis*).

Surveys, initiated in 1971, will be continued to determine the current status of alligators in Texas. Additionally, nuisance alligators will be trapped and transplanted to insure the safety of the individual and of the residents in the area. A transplant program has

been proposed to reintroduce the alligators in suitable habitat within its former range.

h. Houston toad (*Bufo houstonensis*).

Field surveys, initiated during 1974, will be continued to determine current status and habitat requirements of the Houston toad.

It is expected that Department personnel will aid a research study being conducted by Texas A&M University in cooperation with the Office of Endangered Species Program, U.S. and Wildlife Service.

i. Comanche springs pupfish (*Cyprinodon elegans*).

During 1975, studies to determine the status, life history and habitat requirements will be initiated. Additionally, reintroduction of this species to areas containing suitable habitat will be considered.

j. Red wolf (*Canis rufus*).

Currently, the red wolf is under investigation by the U.S. Fish and Wildlife Service. Texas is a member of the red wolf recovery team, and it is expected that Department personnel will be utilized periodically during the investigation.

k. Fountain darter (*Etheostoma fonticoler*).

It is expected that Department personnel will aid an active research program being conducted by Southwest Texas State University at San Marcos. This research program includes trapping and transplanting the fountain darter into the formerly occupied headwaters of the Comal River.

l. Although research is not planned at present, Department personnel may have occasion to capture, possess or acquire the below listed endangered species now on the Federal list during the discharge of their official duties.

(1) Brown pelican (*Pelecanus occidentalis*).
(2) Eskimo curlew (*Numenius borealis*).
(3) Ivory-billed woodpecker (*Campephilus principalis*).
(4) Mexican duck (*Anas diazi*).
(5) Ocelot (*Felis pardalis*) 1900.
(6) Atlantic ridley turtle (*Lepidochelys kempli*) 1971.
(7) Texas blind salamander (*Typhlomolge rathbuni*) 1910.
(8) Clear Creek gambusia (*Gambusia heterochir*).
(9) Pecos gambusia (*Gambusia nobilis*).
(10) Big Bend gambisia (*Gambusia gaigei*).
(11) West Indian manatee (*Trichechus manatus*).
(12) Hawksbill turtle (*Eretmochelys imbricata*).
(13) Leatherback turtle (*Dermochelys coriacea*).
(14) Blue whale (*Balaenoptera musculus*).
(15) Finback whale (*Balaenoptera physalus*).
(16) Right whale (*Eubalaena spp.*).
(17) Sperm whale (*Physeter catodon*).
(18) Bachman's warbler (*Vermivora bachmanii*).

2. N/A.
3. N/A.
4. N/A.
5. The wildlife to be handled are residents of the State of Texas.
6. N/A.
7. No live wildlife will be imported.

MARCH 19, 1975.

CHIEF, DIVISION OF LAW ENFORCEMENT,
U.S. Fish and Wildlife Service,
Washington, D.C. 20240

DEAR SIR: Under date of February 25, the Texas Parks and Wildlife Department's Federal Bird Marking and Salvage Permit No. 6827 was expanded to give authorization to band and use radio transmitters on peregrine falcon on the Texas Gulf Coast and to color mark red-cockaded woodpeckers in East Texas. However, it was stipulated that such authorization was not valid unless accompanied by a special marking permit signed by the Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. (Copy of letter of authorization is attached.)

Accordingly, this is to request approval of the Law Enforcement Office, Washington, D.C., for authorization to band and use radio transmitters on peregrine falcon and to color mark red-cockaded woodpeckers, both endangered species. A copy of my letter of February 1, 1975, to Mr. George Jonkel is attached to substantiate my request for Law Enforcement approval.

If any further information is requested, please contact me.

Sincerely,

HAROLD D. IRBY,
Program Director, Migratory Game.

FEBRUARY 8, 1975.

Mr. GEORGE JONKEL,
Chief, Bird Banding Laboratory,
Migratory Bird Population Station,
Laurel, Maryland 20810.

DEAR MR. JONKEL: In order that the Texas Parks and Wildlife Department may continue to expand its research programs on the peregrine falcon and red-cockaded woodpecker in the next two years, it is requested that the Department's federal bird-banding permit (#6827) be modified as follows:

Peregrine Falcon

The authorization granted to the Texas Parks and Wildlife Department by the Bird Banding Laboratory on September 26, 1974 (BLL-23.2) to band and use radio transmitters on peregrine falcons on the Texas Coast be extended until March 31, 1977, with the following changes: During the fall of 1975 and again in 1976, one hundred (100) birds are to be banded with Fish and Wildlife Service bands and numbered plastic leg bands. Each year, twenty (20) of the birds will also be marked with radio transmitters attached to the two central tail feathers.

This authorization should extend to the following Departmental Biologists: William C. Brownlee, John C. Smith, Danny A. Swepston, Floyd E. Potter and Dan Boone.

Red-cockaded Woodpeckers

The authorization granted to the Texas Parks and Wildlife Department by the Bird Banding Laboratory to band and color-mark red-cockaded woodpeckers in East Texas should be renewed for two years. Authorization should include the right to use mist nets and colored leg flags in the following colors: red, orange, dark blue, light blue, white, and light green.

This authorization should extend to the following Departmental Biologists: William C. Brownlee, John C. Smith, Danny A. Swepston, Floyd E. Potter and Don Boone.

If any further information is required, please contact me.

Sincerely,

HAROLD D. IRBY,
Program Director, Migratory Game.

APPENDIX C

List of Persons with Special Knowledge of Rare, Endangered, and Undetermined Species in the Southwest

1. BATS

Spotted Bat

Dr. W. B. Davis, % Dept. of Wildl. and Fisheries Sciences, Texas A & M University, College Station, Texas 77843

Dr. James E. Scudday, Ass't Prof. of Biology, Sul Ross State Univ., Alpine, Texas 79830

Dr. Dilford Carter, % Dept. of Wildl. and Fish. Sci., Texas Tech University.

Dr. Fred Gehlbach, Dept. of Biol., Baylor Univ., Waco, Texas 76706

2. RODENTS

Texas Kangaroo Rat

Dr. Gehlbach.
Dr. W. B. Davis.
Dr. David J. Schmidly, Dept. of Wildl. and Fish. Sci., Texas A & M University, College Station, Texas 77843

Guadalupe Mountain Vole

Dr. Gehlbach.
Dr. Schmidly.
Dr. Scudday.

Louisiana Vole

Dr. Gehlbach.
Dr. Schmidly.
Dr. Scudday.

3. CARNIVORES

Gray Wolf (in Texas)

Dr. Scudday.
Dr. Schmidly.
Mr. Glynn Riley, BSFW, 504 Independence Drive, Liberty, Texas 77575.

Red Wolf

Mr. Riley.
Mr. James H. Shaw, School of Forestry & Env. Studies, Sage Hall, 205 Prospect Street, Yale University.

Black-footed Ferret

Mr. Milton Caroline, Branch of Predator & Rodent Control, Box 9037, Guilbeau Station, San Antonio, Texas 78204 (ask him for address of Lloyd Cheatheam).
Dr. Gehlbach.
Dr. Scudday.

Swift Fox

Dr. Scudday.
Dr. Schmidly.
Dr. W. B. Davis.

4. WATER & SHORE BIRDS

Eastern Brown Pelican

Dr. David Blankenship, National Audubon Society, Rockport, Texas, Telephone 512-729-5649.

Mr. Gene Blacklock, Welder Wildl. Foundation, Box 1400, Sinton, Texas 78387.

Miss Emily Payne, Corpus Christi, Welder Wildl. Foundation, Box 1400, Sinton, Texas 78387.

Tule White-fronted Goose

Dr. Keith Arnold, Dept. of Wildl. and Fish. Sci. Tex. A & M Univ. 77843.

Mr. Charles Stutzenbaker, Box 5191, Port Arthur, Texas 77640.

Mexican Duck

Dr. Arnold.
Mr. Stutzenbaker.
Mr. Tommy Hailey, Ivan Star Route, Breckenridge, Texas 76024.
Dr. Scudday.

Whooping Crane

Refuge Manager, Aransas Nat. Wildl. Refuge, Austwell, Texas.
Dr. Blankenship.

Eskimo Curlew

Dr. Arnold.
Mr. Blacklock.

Wood Ibis

Mr. Blacklock.
Dr. Henry Hildabrand, Biol. Dept., A & I Univ., Kingsville, Texas 78363.

White-faced Ibis

Mr. Blacklock.
Dr. Blankenship.
Dr. Hildabrand.
Mr. Kirk King, BSFW, P.O. Box 2506, Victoria, Texas 77901.

Western Snowy Plover

Dr. Arnold.

Mountain Plover

Dr. Arnold.

Long-billed Curlew

Dr. Arnold.

5. BIRDS OF PREY

Southern Bald Eagle

John C. Smith, Texas Parks & Wildl. Dept., Austin, Texas 78701.
Raymond Fleetwood, P.O. Box 476, Angleton, Texas 77515.
Dr. Arnold.
Mr. Caroline.

American Peregrine Falcon

Mr. Roland Wauer, Box 728, Santa Fe, New Mexico 87501.
Mr. Smith.
Dr. Grainger Hunt, 800 North Bird St., Alpine, Texas 79830.

Prairie Falcon

Mr. Wauer.
Dr. Hunt.
Mr. Smith.
Mr. Tom Buchanan, Curator of Birds, Abilene Zoo, Abilene, Texas.

Ferruginous Hawk

Dr. Arnold.
Dr. Hunt.
Mr. Buchanan.

American Osprey

Mr. Smith.
Dr. Arnold.

Caracara

Dr. Arnold.
Dr. R. B. Davis, Dept. of Biol. A & I Univ., Kingsville, Texas 78363.

Aplomado Falcon

Dr. Arnold.

Prairie Pigeon Hawk

Dr. Arnold.
Dr. Hunt.

Eastern Pigeon Hawk

Dr. Arnold.
Mr. Smith.
Dr. Hunt.

Western Burrowing Owl

Mr. Caroline.
Dr. Arnold.
Mr. Smith.

Arctic Peregrine Falcon

Mr. Smith.
Dr. Hunt.
Dr. Arnold.
Mr. Ralph Rodgers, Rt. 3, Box 376, Lubbock, Texas 79401.
Dr. James Enderson, Dept. of Biol., Colo. College, Colorado Springs, Colo.

6. UPLAND GAME BIRDS

Attwater's Greater Prairie Chicken

Mr. W. C. Brownlee, 1702 Airline, Victoria, Texas 77901.
Dr. Jim Dodd, Range Sci. Dept., Tex. A & M Univ., College Station, Texas 77843.
Dr. Arnold.

Lesser Prairie Chicken

Mr. Richard Dearment, Wheeler Co. Court House, Wheeler, Texas 79096.
Mr. Jack Parsons, Drawer 1590, San Angelo, Texas 76901.

Masked Bobwhite

Mr. Halley.
Mr. Pierce Uzzell, Texas Parks & Wildl. Dept., John H. Reagan Bldg., Austin, Texas 78701.
Dr. Arnold.

7. OTHER BIRDS

Red-cockaded Woodpecker

Mr. Dan Lay, P.O. Box 4608 SFA, Nacogdoches, Texas 75961.
Mr. Danny Swepston, Texas Parks and Wildlife Department, Austin, Texas.

American Ivory-billed Woodpecker

Dr. Arnold.

Golden-cheeked Warbler

Mr. Warren Pulich, Dept. of Biol., Univ. of Dallas Station, Irving, Texas 75060.
Mr. L. T. (Red) Adams, 706 Wayside Dr., Austin, Texas 78703.
Mr. Jack Albright, Leander, Texas 78641.
Dr. Arnold.

8. REPTILES AND AMPHIBIANS

Dr. James R. Dixon, Dept. of Wildl. & Fisheries Sciences, Texas A & M University, College Station, Texas 77843.
Mr. Floyd E. Potter, Jr., Texas Parks & Wildlife Department, Austin, Texas.
Mr. Robert A. Thomas, Dept. of Wildl. & Fisheries Sciences, Texas A & M University, College Station, Texas 77843.
Dr. Gehlbach.

9. FISH

Dr. Clark Hubbs, Dept. of Zoology, Univ. of Texas at Austin, Austin, Texas 78712.

FEDERAL AID IN FISH AND WILDLIFE RESTORATION—PROGRAM NARRATIVE

AMENDMENT NUMBER 2

State: Texas; Project No.: W-100-R.
Project Title: Attwater's Prairie Chicken.

Research and Survey Section

Study Title.—Survey, Status of the Attwater's Prairie Chicken in Texas.

III. Objective: To determine population levels, production and habitat acreage of Attwater's prairie chicken in Texas.

Procedures:

1. Known colonies in Austin, Colorado, Fort Bend, Galveston, Goliad, Harris, Refugio, Wharton and Victoria Counties will be censused during the late winter and spring. Aerial survey, utilizing airplanes and helicopters, will be used to locate and census booming grounds. Ground counts will be made to augment aerial surveys. Major booming areas will be censused each year to develop trend information. Additionally, a survey of the known occupied ranges will be completed every two years, utilizing both aerial and ground observations (Figure 1).

2. Ground and aerial observations during the summer months will be utilized to determine production of known colonies. Data will be recorded as to number of hens observed, number of chicks observed, date of observation and county in which observed. Additionally, nests located during other studies will be watched. Information as to number of eggs laid, number of eggs hatched, whether the nesting attempt succeeds or not, and causes for each unsuccessful nesting attempt, will be recorded.

3. Data will be published annually in Federal Aid Job Performance Reports.

Study Title.—Information and Education.

II. Objective: To prepare recreational, informational, and educational guides and materials about nongame, including species threatened with extinction, in Texas, and to disseminate this information to the interested public by: (1) prepared materials, (2) correspondence, (3) meetings.

Procedures:

1. Accumulate information derived from Job numbers 1, 30, 31, 32, 40, 41, 42, 50, 51, and 60, analyze data, and prepare bulletins, pamphlets, and scientific papers showing the locations, relative abundance, life history, and habitat requirements of selected species as follows:
a. Endangered species (general).
b. American osprey.
c. Arctic peregrine falcon.
d. Birds of prey (general).
e. Fish-eating birds (general).
f. Golden-cheeked warbler.
g. Red-cockaded woodpecker.
h. Southern bald eagle.
i. American alligator.

2. Answer requests for specific information arising from phone calls, correspondence, interviews, questionnaires, slide shows, talks, and environmental impact statements.

3. Coordinate with intra- and interdepartmental divisions to facilitate conveyance and use of nongame information.

Study Title.—Nongame Investigations—Texas Fauna.

III. Objective: To determine the distribution, numbers, densities, and habitat requirements of selected nongame fauna with emphasis on endangered, threatened, and peripheral species in Texas.

Procedures:

1. Black-footed Ferret.—Prairie dog towns as listed by the Soil Conservation Service and the Bureau of Sport Fisheries and Wildlife will be sampled to determine the status of black-footed ferret in Texas. Further, any reports of ferret sightings outside sampled towns will be investigated for incorporation into the species status determination. Ferret-inhabited prairie dog towns will be analyzed in light of location, vegetation, soil type, land use, predation, etc. in an attempt to evaluate habitat requirements.

2. Osprey and Bald Eagle.—Reports of osprey and bald eagle sightings will be obtained from self addressed survey cards circulated with an explanation letter and leaflet to department field personnel, federal field personnel, members of the National Audubon Society, the Wilson's Society, licensed Texas falconers, pilot organizations, and other personnel (Appendix G. 1-4). Sightings will be categorized according to county, month, land, water (river or lake) and adults and immatures (subjective). The total number of sightings will be used to establish population trends. Known nest locations of southern bald eagles will be revisited to ascertain if nests are active or inactive. Sightings from reliable persons of previously unreported nests will be confirmed by visits to the nest location. These methods will be used to determine an annual nesting population estimate of southern bald eagles in the state.

3. Arctic Peregrine Falcon (*Falco peregrinut tundrius*).—Survey routes will be traveled along selected segments of beach on the Texas coast during September and October according to procedures modified from Ward and Berry (1972). Established routes will be traveled on the Upper, Middle, and Lower Texas coast to yield data indicating migration peaks and population trends as reflected through total sightings. Banding, colormarking, and radio telemetry operations are planned to determine the average period of time an individual falcon remains in a particular area. Such information will be used to expand seasonal observations into total seasonal populations. Falcons will be caught by roving teams employing the harnessed pigeon technique. Miniature radio

transmitters will be placed on a number of falcons to monitor their daily movements and habits. Fish & Wildlife Service lock-on bands and International Peregrine Falcon Team color-bands will also be attached. Transmittered falcons will be relocated on migrational routes by both aerial and ground searches. Data from recoveries, returns, sightings (color-band), and telemetry will assist in converting sightings (survey route) to population totals for the survey period.

4. American Peregrine Falcon (*Falco peregrinus anatum*).—Surveys will be conducted in the Trans-Pecos falcon range to locate active eyries. Results of these surveys will be used to obtain a breeding population estimate.

5. Fish-eating birds.—Breeding populations of fish-eating birds will be estimated through an annual Texas Fish-eating Bird Survey. These estimates will be obtained through aerial surveys and detailed ground counts on the Texas coast. The major inland rookeries will be surveyed by ground counts. Counts will be made in early summer at the peak of nesting activity. Aerial and ground counts will be compared to derive suggested population totals for the various species of fish-eating birds. Data will be tabulated and an Annual Fish-eating Bird Survey Report will be published.

6. Determine movements of selected fish-eating birds anhinga (*Anhinga anhinga*), black-crowned night heron (*Nycticorax nycticorax*), black skimmer (*Rynchops nigra*), cattle egret (*Bubulcus ibis*), great blue heron (*Ardea herodias*), great egret (*Casmerodius albus*), least tern (*Sterna albifrons*), little blue heron (*Florida caerulea*), Louisiana heron (*Hydranassa tricolor*), reddish egret (*Dichromanassa rufescens*), roseatte spoonbill (*Ajaia ajaja*), snowy egret (*Lencophoyx thula*), and yellow-crowned night heron (*Nyctanassa violacea*) associated with selected coastal and inland rookeries in Texas. Principal fish-eating bird investigators will be consulted to formulate general guidelines for a standardized, large-scale fish-eating bird banding program. Separate zones will be designated to represent respective flocks for the Upper, Middle, and Lower Coast, South Inland, North Inland, and East Inland regional rookery areas. Field banding operations will be conducted in the major rookery areas during the peak of nesting from late April to July. Banded birds will be coded with an appropriate color-band placed above the ankle joint (around the distal end of the tibiotarsus). Reports of sightings will be encouraged by employing an alert program through news releases and contacts with various organizations having personnel or members in the field. Data from sightings, band recoveries, and returns will be analyzed, using accepted banding analysis techniques.

7. Potential management techniques for fish-eating birds will be tested for utility. Two experimental artificial nesting structures previously erected in Copano Bay near the mouth of the Aransas River, will be used to test usefulness of this method in encouraging population increase for the olivaceous cormorant (*Phalacrocorax olivaceus*) (Appendix H). Welder Wildlife Refuge personnel will monitor bird use as a management tool. Recommendations will be made when feasible for spoil from dredging operations in coastal bays to be deposited on selected sites which may be suitable as nesting areas for fish-eating birds. Rookery sites will be mapped according to data obtained from fish-eating bird surveys. This material will serve in habitat preservation considerations regarding proposed dredging operations.

8. Red-cockaded Woodpecker.—A trapping and color-banding program will be conducted on two study areas in Newton and Jasper Counties of East Texas. Birds on these areas will be retrapped as often as necessary to monitor movements and to catch new birds. Field observations of marked birds will be used to determine quality and quantity of habitat, population dynamics and life expectancy. Documentation of the location and condition of trees used by the birds will aid in determining why birds select certain trees as well as the causes and rate of tree mortalities. Documentation of agreements made in timber management practices on public and private lands will be made and evaluated as to their effect on the woodpecker and for development of management techniques.

9. Golden-cheeked Warbler.—A habitat and population survey will be conducted on known nesting grounds during the spring of 1974. Data will be used to update a 1964 survey made by Mr. Warren Pulich to be included in a popular life history bulletin.

10. American Alligator.—Populations will be sampled by size (age) using a line survey or other suitable method to give a more accurate estimate of population status than currently exists in Texas. Results of survey lines will be compared statistically with quadrat surveys for correlation in those areas where quadrat surveys are practical. Geographic areas where the American alligator population is undergoing changes will be determined and management procedures will be recommended toward bringing population numbers to optimum maintenance levels.

11. Houston Toad.—Field surveys will be conducted to determine current status as to distribution, numbers, and habitat requirements. Management methods will be recommended to enhance its survival.

12. Comanche Springs Pupfish.—Life history and habitat requirements will be investigated. Population numbers and range will be established. Management practices at the Balmorhea State Park refugium will be monitored to reveal any modifications needed in line with results of investigation. Reintroduction of the species to suitable habitats will be considered.

13. Analyze data and prepare a final report or publication(s).

FEDERAL AID IN FISH AND WILDLIFE RESTORATION—PROGRAM NARRATIVE

AMENDMENT NO. 5

State: Texas. Project No. W-103-R.

Project Title: Nongame Wildlife Investigations.

Approval is requested to change the title of this study from "Special Wildlife Investigations" to "Nongame Wildlife Investigations".

Research and Survey Section

Study Title.—Species Status Evaluation.

I. Objective: To enhance recovery of species threatened with statewide extinction in Texas by: (1) determining status of endangered species, (2) updating a list of endangered species in Texas as warranted by increased knowledge, (3) proposing regulations to protect endangered species.

Procedures:

1. (a) Delineate criteria through which the status of species can be evaluated. Schemes for evaluating the status of a species will be devised on several bases.

(b) A system of assigning numerical values (in order of importance) to pertinent situations will be utilized to obtain an evaluation index number. Other methods of determining status indicators will be examined.

(c) These techniques will be compared as to utility and practicability in assessing species status.

2. Techniques for attaining the objective will include:

(a) Survey techniques such as transect censuses for the Houston Toad and American alligator; aerial and/or ground migrational and breeding censuses for the peregrine falcon.

(b) Literature reviews of published material.

(c) Professional liaison with other agency specialists.

(d) Questionnaire surveys to professional and semi-professional public.

3. Implement procedures for deleting as well as adding species to the official endangered species list. A systematic schedule for periodic review of species on the Texas list and for other candidate species will be prepared. This schedule will be tested in order to determine the most appropriate review interval, but will not preclude provisions of species additions or deletions on the list as specified in H.B. 260.

4. Recommendations for additions and/or deletions of species from official list will be made by project personnel when collected data justifies, or by the general public when its justification qualifies according to the specification of H.B. 260.

5. Prepare and disseminate regulations and official list of fish and wildlife threatened with statewide extinction based on species status, information derived from literature reviews, federal and state laws, and various project jobs.

Study Title.—Requirements of Attwater's Prairie Chicken.

V. Objective: To determine factors limiting the distribution and abundance of Attwater's prairie chicken.

Procedures:

1. Two study areas were selected in the prairie chicken's present range (Figure 2) at beginning of the study in 1970. One area of approximately 10,000 acres is located north of Victoria, Victoria County. The second study area involves 40,000 acres in the vicinity where Colorado, Austin and Wharton Counties join. Chickens will continue to be trapped and marked. Activity will be recorded with the use of telemetry equipment. Individuals of both sexes will be followed to determine feeding, breeding, roosting, nesting and brooding territories. Additionally, shelter requirements in relation to the above activities will be recorded. The chicken will be located by the telemetry triangulation method and its location recorded on an aerial photograph of the area. Each chicken will be located at least once each day and more frequently if possible. When transmitter batteries become weak, the chicken will be located and with the use of spotlights and dip nets, the chicken will be trapped, the battery replaced, and the bird re-released. It is estimated that data on four birds of each sex in this area will give the required information needed for determining the chicken's home range and its activities within each type of its territorial range. In conjunction with the movement study, vegetative classification will be made to describe the physiognomy of the prairie chicken range. This classification will follow the life form categories of Du Rietz. Vegetative measurements outlined by Anderson will be taken where birds are sighted or flushed. The use of each type of life form will be recorded in association with the activity of the chicken.

2. Two booming grounds containing approximately the same number of males will be selected in both Colorado and Victoria Counties. Trapping in Colorado and Victoria Counties will occur during 1974 and 1975 respectively. All males on the booming

grounds will be captured by utilizing the helinet and rocket net methods. Captured males will be banded with colored bands coded to the respective booming ground. Captured birds will be released where initially observed immediately before pursuit or capture. During booming activities the following spring, all males utilizing these booming grounds will be counted and observed closely to determine the number of banded birds returning, shifting between booming grounds, and number of young or "new" birds present. Banded birds observed elsewhere than on the four study grounds will be recorded.

3. Data will be analyzed and published in an appropriate wildlife journal or as a Departmental Technical Bulletin.

Study Title.—Management of Attwater's Prairie Chicken.

VI. Objective: To determine, develop and initiate management practices designed to increase prairie chicken numbers throughout its present range.

Procedures:

1. Thirty to thirty-six prairie chicken eggs will be collected in Victoria and Austin Counties. The eggs will be incubated under bantam hens. During incubation, the hens will be allowed to range out of the cage during the day. The broods will be caged each night until the chicks are four weeks of age. Records will be maintained as to number of eggs collected, number hatched, number surviving to four weeks of age and number surviving to eight weeks of age. After 8 weeks of age, the chickens will be banded and released on the Victoria study area. Cause of chick losses during the study will be determined when possible.

2. A literature review will be made on control methods for huisache, running liveoak, Chinese tallow, McCartney rose, baccharis waxmyrtle and mesquite. The use of chemicals will be in accordance with existing regulations for Victoria County. The use of unregistered chemicals will be accomplished under the direction of Texas A&M Experimental Range Research Station and Range Extension Service. Where practical, control methods will be tested to determine cost and effectiveness of the treatment.

3. Five tracts will either be leased under long term agreements or purchased. Each tract will be located in close proximity to known booming grounds and will vary in size to determine the optimum size for maximum nesting usage. The tracts will be 20–40, 40–60, 60–80, 80–100, and 100–120 acres respectively and will be located in the Austin, Colorado, Wharton County chicken range. Each tract will be developed as required to provide maximum nesting cover and protection.

4. Two food plot areas of 25 acres each will be developed within the chicken range in Victoria County to determine brood survival. The food plots will be planted to milo maize, red top cane, soybeans, or peanuts. Survival will be determined by conducting hen/poult counts in the areas of the food plots and in areas containing no plots.

5. Data will be analyzed and published in an appropriate journal or as a Departmental Technical Bulletin.

AUGUST 12, 1974.

SPECIAL AGENT IN CHARGE,
U.S. Fish and Wildlife Service,
P.O. Box 61161,
Houston, Texas 77061.

DEAR SIR: The Texas Parks and Wildlife Department hereby requests permission to take and transport nuisance American alligators (*alligator mississipiensis*) from problem situations to known areas of habitat suitable for additional alligators within the State.

The principal permittee would be Clayton T. Garrison, Executive Director. Personnel of the Department are qualified in alligator capture and transportation.

Such activities would be conducted throughout the State of Texas, but the primary area of concern is the eastern one-half of the State. Requested effective date of this permit is September 15, 1974, for an indefinite period.

Public fear of adult alligators which move into areas where they are not wanted makes it necessary to remove the animals and place them in a more receptive situation. It is imperative that a permit be granted to the Parks and Wildlife Department so that a legal means will be possible for moving nuisance alligators in order to enhance their chances for survival.

Sincerely,

CLAYTON T. GARRISON,
Executive Director,
Texas Parks and Wildlife Department.

MAY 29, 1974.

Mr. LYNN GREENWALT,
Bureau of Sport Fisheries and Wildlife,
Washington, D.C. 20240

DEAR SIR: The Texas Parks and Wildlife Department requests issuance of a master permit in my name authorizing personnel of the Parks and Wildlife Department to take and transport nuisance alligators in the interest of preservation of the resource.

Sincerely,

CLAYTON T. GARRISON,
Executive Director,
Texas Parks and Wildlife Department.

APRIL 1, 1974.

DEAR FELLOW TEXAN: The Texas Parks and Wildlife Department is continuing its survey to determine the population, density and nesting trends of the American Bald Eagle and American Osprey in this State. We would like to solicit your cooperation and aid in the completion of this study. This data will allow the Department to establish population levels of Texas fish hawks and eagles. We also hope to determine the nesting success of these endangered species so that future problems which might arise with these birds can be carefully monitored.

You will find enclosed 3 forms on which we would like for you to share your knowledge of observed birds and existing nest locations of these species. The data that we desire consists of (1) exact location of observed birds, (2) exact location of active or inactive nests (county and directions to the nest site) and (3) a brief description of the nesting site (species of tree, alive or dead, whether the area is forested or open, etc.). Such descriptions will enable us to locate these nests in future years. Nest sites reported will be subsequently visited to determine more specific information. Nest site locations will be held in confidence and not released to the general public. However, characteristics and success of nest sites will be published. Please include nests that you have reported previously and their current status.

Your assistance last year produced 571 bald eagle and 331 osprey observations as well as 6 active bald eagle nests throughout the State.

At this time, please report observations of bald eagles and osprey, listing only one species per form. An observation includes the bird(s) seen at any one time. If additional forms are needed, simply place your request in the "comments" section of one of your completed forms.

Your cooperation in helping us make this an effective survey is certainly appreciated.

Sincerely,

CLAYTON T. GARRISON,
Executive Director,
Texas Parks and Wildlife Department.

To: Biologists, Fish & Wildlife Technicians, Game Wardens and Park Superintendents.
From: Executive Director.
Subject: Bald Eagle and Osprey Survey.

It is again that time of the year when we need to make our survey of bald eagles and osprey (Project W-103-R) to determine the number of these endangered species located in the State during the winter months. Your assistance last year produced 571 bald eagle and 331 osprey observations as well as 6 active bald eagle nests.

Enclosed are forms for reporting information you may have on observations of bald eagles, osprey or their nests. Data needed consists of (1) exact location of observed birds, (2) exact location of active or inactive nests, and (3) a brief description of the nesting site (species of tree, alive or dead, whether the area is forested or open, etc.). Nest sites reported in this survey will be subsequently visited to determine more specific information. The characteristics and success of nest sites will be published and made available to you upon request.

I will expect the same fine assistance and cooperation on this year's survey that was received from you last year. If you have any comments and/or recommendations which might improve this type of survey, please advise.

CLAYTON T. GARRISON.

Documents and complete information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Suite 600, 1612 K Street, N.W., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/LE), U.S. Fish and Wildlife Service, Post Office Box 19183, Washington, D.C. 20036. All relevant comments received on or before May 21, 1975 will be considered.

Dated: April 14, 1975.

LOREN K. PARCHER,
Acting Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service.

[FR Doc.75-10088 Filed 4-18-75;8:45 am]

LEOPARD AND CLOUDED LEOPARD

Review of Endangered Species Status

In 1972 the U.S. Department of the Interior declared the leopard (*Panthera pardus*) to be an Endangered species throughout its natural range. This determination reflected an apparent serious decline in the numbers and distribution of the leopard, primarily because of commercial exploitation and habitat modification. Designation as Endangered essentially ended the legal importation of leopards and their skins into the United States. Within the last few years, however, there have been reports that the leopard may not be Endangered

throughout its range, and that some legal exploitation may be permissible. During the same period, however, evidence has accumulated to indicate that a smaller relative of the leopard, the clouded leopard (*Neofelis nebulosa*) of Southeast Asia, may have declined to the point where its survival is in jeopardy.

In December 1973, a new Endangered Species Act went into effect. This law enables a species to be classified either as Endangered or Threatened, and allows both these classifications to be applied to different parts of the range of a species. The "Endangered" classification carries with it a ban on taking or importing; but a "Threatened" classification allows whatever regulations are thought advisable within any designated part of the range of a species. It should be emphasized, however, that the "Threatened" classification by law could carry the same prohibitions as the "Endangered" classification.

Notice hereby is given that the Department of the Interior has evidence on hand to warrant a review to determine whether the leopard (*Panthera pardus*) should be reclassified as Threatened in any part of its range, and whether the clouded leopard (*Neofelis nebulosa*) should be proposed for listing as either an Endangered or Threatened species. The review will consider all factors that may affect these species, such as legal and illegal hunting, fur trapping and exporting, government regulations and enforcement, local and national attitudes, commercial and economic pressures, availability of prey species, depredations on livestock, expansion of human population, habitat destruction, and environmental alteration.

The Department is seeking the views of the governments of all countries in which the leopard and clouded leopard occur. Other interested parties hereby are invited to submit any factual information, including publications and written reports, which is germane to this status review. Such information should be submitted within 90 days to the Director, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

APRIL 16, 1975.

[FR Doc.75-10310 Filed 4-18-75;8:45 am]

UNITED STATES PLANTS

Review of Endangered Species Status

Notice is hereby given that the Department of the Interior has been petitioned and has sufficient evidence on hand to warrant a review of the following species of plants to determine whether they should be proposed for listing as either "endangered" or "threatened" species as defined by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543).

Scientific name	Common name	Where found
Aconitum noveboracense.	Monkshood	Iowa, Ohio, New York, and Wisconsin.
Sullivantia renifolia.	Sullivantia	Illinois, Iowa, Minnesota, Missouri, and Wisconsin.
Primula mistassinica.	Bird's-eye Primrose.	Illinois, Iowa, Maine, Michigan, New York, Wisconsin, and Canada (Labrador, New Brunswick, Quebec, Ontario).
Saxifraga forbesii.	Forbe's Saxifrage.	Illinois, Iowa, Minnesota, Missouri, and Wisconsin.

The Department is seeking the views of the Governors of Illinois, Iowa, Maine, Michigan, Minnesota, Missouri, New York, Ohio and Wisconsin and the Government of Canada where those species of plants are found. Other interested parties are hereby invited to submit any factual information, including publications and written reports, which is germane to this status review.

Such information should be submitted within 90 days to: Director, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

LYNN A. GREENWALT,
Director, Fish and Wildlife Service.

APRIL 16, 1975.

[FR Doc.75-10309 Filed 4-18-75;8:45 am]

Office of the Secretary

[INT FES 75-43]

AUTHORIZED FRYING PAN-ARKANSAS PROJECT, COLO.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement on a proposed water supply and hydroelectric power project for the purposes of furnishing power and municipal, industrial and irrigation water to the power and water deficient areas of the Arkansas River Basin and eastern Colorado. Comments received in letters and at the public hearings are included and addressed.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-9247.

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234-3014.

Office of the Regional Director, Bureau of Reclamation, Lower Missouri Region, Building 20, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234-3779.

Fryingpan-Arkansas Project Office, Bureau of Reclamation, P.O. Box 515, Pueblo, Colorado 81002, Telephone (303) 544-2200.

Pikes Peak Regional Library District, P.O. Box 1597, Colorado Springs, Colorado 80901.

Pitkin County Public Library, 110 East Main, Aspen, Colorado 81611.

Mr. Robert W. Roehr, Pueblo Regional Library, 100 East Abrieno Avenue, Pueblo, Colorado 81004.

Lake County Public Library, 1115 Harrison, Leadville, Colorado 80461.

Buena Vista Public Library, Box U, Buena Vista, Colorado 81211.

Southern Colorado State College, 2300 Bonforte Boulevard, Pueblo, Colorado 81001.

Colorado Mountain College—West Campus, Learning Resources Center, 803 Colorado Avenue, Glenwood Springs, Colorado 81601.

Canon City Public Library, 512 Mason Avenue, P.O. Box 361, Canon City, Colorado 81212.

Single copies of the final statement may be obtained on request to the Commissioner of Reclamation or the Regional Director.

Dated: April 16, 1975.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.75-10343 Filed 4-18-75;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 193]

TRANS-WORLD FINANCIAL CO.

Receipt of Application for Permission To Acquire Control of Golden West Financial Corp.

APRIL 16, 1975.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Trans-World Financial Co., Los Angeles, California, a multiple savings and loan holding company, for approval of acquisition of control of the Golden West Financial Corporation, San Francisco, California, a multiple savings and loan holding company, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(c)), and § 584.4 of the regulations for savings and loan holding companies, said acquisition to be effected by an exchange of the common stock of Trans-World Financial Co. for the common stock of Golden West Financial Corporation. Following said acquisition, it is proposed that Golden West Savings and Loan Association, an insured subsidiary of Golden West Financial Corporation, be merged into World Savings and Loan Association, an insured subsidiary of the applicant. Comments on the proposed acquisition should be submitted to the Director, Holding Company Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before May 21, 1975.

[SEAL]

GRENVILLE L. MILLARD, JR.,
Assistant Secretary, Federal Home Loan Bank Board.

[FR Doc.75-10333 Filed 4-18-75;8:45 am]

DEPARTMENT OF AGRICULTURE

[Marketing Order 905]

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Notice of Meeting

Marketing Order No. 905, 7 CFR Part 905 regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of a meeting of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The committee will meet in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida, at 10:30 a.m., on May 6, 1975.

The meeting will be open to the public and a brief period will be set aside for public comments and questions. The agenda of the committeei ncludes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, and other information pertaining to the meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813–682–3103.

Dated: April 18, 1975.

JOHN C. BLUM,
Associate Administrator.

[FR Doc.75-10543 Filed 4-18-75;11:40 am]

Forest Service

ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1975

Notice of Status

A list of environmental statements is here published to provide timely public information on the status of Forest Service environmental statements under preparation as of March 15, 1975. Persons interested in a particular action and environmental statement should contact the responsible official directly.

For ease in use of this list, statements are grouped by Forest Service organizational units proposing the action. Statements marked with an asterisk indicate, in total or in part, land use planning, developments, or activities within inventoried roadless areas. National Forest inventoried roadless areas are defined as roadless and undeveloped areas 5,000 acres or larger, except that smaller areas adjoining existing Wilderness and Primitive Areas could be included. Existing Wilderness and Primitive Areas are excluded from this definition.

Forest Service field addresses are given at the end of the listing of environmental statements.

Dated: April 10, 1975.

R. MAX PETERSON,
Deputy Chief, Forest Service.

FOREST SERVICE ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1975

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
Washington Office: USDA, Forest Service, 12th St. and Independence Ave., SW., Washington, D.C. 20250:					
Flaming, Gorge National Recreation Area general management plan.	Ashley National Forest, Utah.	Land use plan	Chief	April 1975	August 1975.
*Regulations for protection of surface values of Federal lands in Sawtooth National Recreation Area.	Sawtooth National Forest, Idaho.	Legislation	do	July 1975	January 1976.
Salmon River Wild and Scenic River	Idaho	do	do	June 1975	December 1975.
* Teton corridor wilderness classification	Bridger-Teton National Forest, Wyo.	do	do	July 1975	Do.
* Lone Peak	Wasatch and Uinta National Forests, Utah.	New wilderness study area	do	April 1975	September 1975.
Triangle Ranch Land Exchange	Modoc National Forest, Calif.	Land exchange	do	September 1974	May, 1975.
*North Fork American River Wild and Scenic	Tahoe National Forest, Calif.	Legislation	do		
*Land acquisition from Southern Pacific Land Co.	Shasta-Trinity, Calif.	Land acquisition	do		
Sandia Peak Tram Co	Cibola National Forest, N. Mex.	Land exchange	do	November 1974	April 1975.
*Portage—Twelve Mile	Stikine Area, Alaska	Resource plan	do	September 1974	March 1975.
*Alaska lumber and pulp 5-year cutting plan	Chatham Area, Alaska	do	do	January 1976g	
*Flathead Wild and Scenic River proposal	Flathead National Forest, Mont.	Legislative	do	September 1973	
St. Joe Wild and Scenic River proposal	St. Joe National Forest, Idaho.	do	do	April 1975	
Skagit Wild and Scenic River study	Mount Baker-Snoqualmie National Forest, Wash.	do	do	May 1975	January 1976.
Oregon Dunes National Recreation Area	Siuslaw National Forest, Oreg.	Wilderness study	do	October 1974	July 1975.
*Illinois River study	Siskiyou National Forest, Oreg.	Legislation	do	October 1975	April 1976.
*Nachess-Tieton-White River land use plan	Mount Baker-Snoqualmie National Forest, Wash.	Land use plan legislation	do	June 1975	December 1975.
*Alpine Lakes	do	do	do	July 1973	May 1975.
Pere Marquette Scenic River	Manistee National Forest, Mich.	Legislation	do	February 1974	June 1975.
Open Pit Copper and Nickel Mining	Superior National Forest, Minn.	Land use plan	do	June 1976	December 1976.
Northern Region, Region 1: USDA Forest Service, Federal Bldg., Missoula, Mont. 59801:					
*Bitterroot South	Bitterroot National Forest, Mont.	do	Forest supervisor	March 1975	June 1975.
*Sapphires	do	do	do	May 1975	November 1975.
*Lowest West Fork	do	do	do	April 1975	September 1975.
Warm Springs-Medicine Tree	do	do	do	May 1975	November 1975.
Little Sleeping Child-Rye	do	do	do	November 1975	March 1976.
Camp-Tolan	do	do	do	October 1973	April 1975.
Timber management plan, Bitterroot National Forest.	do	Resource plan	Regional forester	June 1975	October 1975.
Timber management plan	Coeur d'Alene National Forest, Idaho.	do	do	do	
Do	St. Joe National Forest, Idaho.	do	do	do	
Emerald Creek	do	Land use plan	Forest supervisor	April 1975	
Siwash	do	do	do	September 1975	
Napoleon	Kaniksu National Forest, Idaho.	do	do	June 1975	
Lakeview	do	do	do	February 1975	June 1975.

FOREST SERVICE ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1975—Continued

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
Northern Region, Region 1: USDA Forest Service, Federal Bldg., Missoula, Mont. 59801—Continued.					
Smith Creek	do	do	do	March 1975	July 1975.
Blacktail	do	do	do	June 1975	
Elk River	do	do	do	May 1975	
Interim timber management plan	do	Resource plan	Regional forester	June 1974	March 1975.
Pryor Mountain Complex	Custer National Forest, Mont.	Land use plan	Forest supervisor		Do.
Beartooth Highway	Custer, Gallatin, Shoshone National Forest, Mont. and Wyo.	do	do	April 1975	November 1975.
Rolling Prairie	Custer National Forest, N. Dak.	do	do	December 1974	July 1975.
Beartooth Face	Custer National Forest, Mont.	do	do	February 1976	July 1976.
Sioux	Custer National Forest, Mont. and S. Dak.	do	do	November 1975	May 1976.
Ashland	Custer National Forest, Mont.	do	do	December 1975	Do.
Basin unit plan	Deerlodge National Forest, Mont.	do	do	May 1975	September 1975.
North End plan	do	do	do	do	Do.
Skalkaho-East Fork Unit plan	do	do	do	October 1975	February 1976.
Fleecer Unit plan	do	do	do	February 1975	May 1976.
*Lake Five	Flathead National Forest, Mont.	do	do	July 1974	May 1975.
Big Mountain master plan	do	Winter sports site	do	April 1974	July 1975.
Cedar Bassett	Gallatin National Forest, Mont.	Land use plan	do	August 1973	May 1975.
Hebgen Lake	do	do	do	December 1974	April 1975.
West Yellowstone	do	do	do	August 1975	December 1975.
Ski Yellowstone	do	Winter sports	do	April 1975	July 1975.
Big Tepee	do	Timber sale	do	February 1974	April 1975.
South Fork Swan Creek	do	do	do	do	Do.
Elkhorn	Helena National Forest, Mont.	Land use plan	do		Do.
Colorado-Unionville-Travis	do	do	do	June 1975	April 1976.
East Belts	do	do	do	September 1975	July 1976.
Mike Horse	do	do	do	January 1976	November 1976.
Marple-Confederate	do	do	do	October 1975	September 1976.
Ophir Dog-MacDonald Pass	do	do	do	January 1976	November 1976.
Nevada-Ogden	do	do	do	June 1976	April 1977.
Callahan	Kootenai National Forest, Mont.	do	do	July 1974	April 1975.
*West Kootenai	do	do	do	April 1975	October 1975.
*Cross Mountain	do	do	do	do	September 1975.
*O'Brien	do	do	do	do	October 1975.
*Seventeenmile	do	do	do	June 1975	November 1975.
*Dickey-Sunday	do	do	do	April 1975	October 1975.
Big Swede	do	do	do	July 1975	January 1976.
Pinkham	do	do	do	June 1975	March 1976.
*Keeler	do	do	do	August 1975	April 1976.
*Pipe	do	do	do	do	January 1976.
Smith River	Lewis and Clark National Forest, Mont.	do	do	May 1975	December 1975.
Rocky Mountain Front	do	do	do	do	Do.
Little Snowy	do	do	do	do	Do.
Logging-Pilgrim Creek	do	do	do	July 1975	February 1976.
Castle Mountain	do	do	do	June 1975	Do.
Eagle-Smokey Mountain	do	do	do	August 1975	March 1976.
Yogo-Bear Park	do	do	do	do	Do.
Prospect Creek	Lolo National Forest, Mont.	do	do	December 1975	July 1976.
Placid-Blanchard	do	do	do	June 1975	December 1975.
Ward-Eagle	do	do	do	August 1974	April 1975.
North Cutoff-Kennedy	do	do	do	June 1975	December 1975.
Minemile	do	do	do	July 1975	January 1976.
Petty Mountain	do	do	do	April 1975	October 1975.
Kelly-Bullion	Nez Perce National Forest, Idaho.	do	do	June 1974	September 1975.
Rainy Day	do	do	do	March 1975	July 1975.
Stillman Point	do	do	do	do	October 1975.
Red River	do	do	do	April 1975	Do.
Mill Creek	do	do	do	December 1975	April 1976.
Hot Point	do	do	do	September 1975	Do.
Blue Ridge	do	do	do	April 1976	November 1976.
Slate Creek	do	do	do	October 1975	March 1976.
Crooked Creek-Orogrande	do	do	do	May 1976	December 1976.
Timber management plan	do	Resource plan	Regional forester	October 1975	March 1976.
Rocky Mountain Region, Region 2: USDA, Forest Service, 11177 West 8th Ave., P.O. Box 25127, Denver, Colo. 80225:					
*East Fork Troublesome Creek	Arapaho National Forest, Colo.	Land use plan	Forest supervisor, Routt National Forest.	April 1976	November 1976.
Timber management	do	Resource plan	Regional forester	December 1974	April 1975.
Snake River unit	do	Land use plan	Forest supervisor, White River National Forest.	April 1975	August 1975.
Timber management	Bighorn National Forest, Wyo.	Resource plan	Regional forester	January 1975	April 1975.
Do	Grand Mesa-Uncompahgre National Forests, Colo.	do	do	December 1974	Do.
Do	Gunnison National Forest, Colo.	do	do	do	Do.
*East River	Gunnison and White River National Forests, Colo.	Land use plan	Forest supervisors	June 1975	September 1975.
*Grand Mesa-Muddy Creek	Gunnison-Grand Mesa National Forests, Colo.	do	do	do	Do.
*Savage Run	Medicine Bow National Forest, Wyo.	do	do	do	Do.
Ryan Park	do	Winter sports site	do	April, 1975	July 1975.
Timber management	do	Resource plan	Regional forester	December 1974	April 1975.

FOREST SERVICE ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1975—Continued

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
Rocky Mountain Region, Region 2: USDA, Forest Service, 11177 West 8th Ave., P.O. Box 25127, Denver, Colo. 80225—Continued:					
*Southern San Juan Mountains	Rio Grande National Forest, San Juan National Forest, Colo.	Land use plan	Forest supervisors.	December 1975	April 1976.
*South Fork (includes Wolf Creek Ski area)	Rio Grande National Forest, Colo.	do	do	April 1975	June 1975.
Timber management	do	Resource plan	Regional forester	December 1974	April 1975.
*Bears Ears unit	Routt National Forest, Colo.	Land use plan	Forest supervisor	April 1975	August 1975.
*Blacktail	do	do	do	do	Do.
*Mount Welba	do	do	do	February 1975	July 1975.
Timber management	do	Resource plan	Regional forester	October 1974	March 1975.
*Storm Peak	San Juan National Forest, Colo.	Land use plan	Forest supervisor	March 1975	June 1975.
*First Fork	do	do	do		
Timber management	do	Resource plan	Regional forester	February 1975	Do.
Beartooth Highway unit (w/region 1)	Shoshone, Gallatin, and Custer National Forests, Mont. and Wyo.	Land use plan	Forest supervisors	June 1975	December 1975.
Timber management	Shoshone National Forest, Wyo.	Resource plan	Regional forester	February 1975	June 1975.
*Thompson Creek management unit	White River National Forest, Colo.	Land use plan	Forest supervisor	January 1975	July 1975.
*Upper Eagle unit	do	do	do	April 1975	December 1975.
Marble Winter Sports site	do	Winter sports site	do	April 1973	May 1975.
Southwestern Region, Region 3: USDA, Forest Service, 517 Gold Ave., SW., Albuquerque, N. Mex. 87102:					
Aquatic Weed Control	Apache-Sitgreaves National Forest, Ariz.	Herbicide	Regional forester	March 1974	March, 1975.
Black River	do	Land use plan	Forest supervisor	June 1975	November, 1975.
Timber management plan	Sitgreaves National Forest, Ariz.	Resource plan	Regional forester	do	December, 1975.
Off-road vehicle	Carson National Forest, N. Mex.	Land use plan	Forest supervisor	March 1976	October, 1976.
Sipapu Ski Area expansion	do	Winter sports	Regional forester	November 1975	May, 1976.
Taos Ski Valley	do	do	do	April 1974	September, 1975.
*Bokum Resource Corp., mineral entry	Cibola National Forest, N. Mex.	Roadless area	do	May 1975	August, 1975.
*Manzano Mountain	do	Land use plan	Forest supervisor	March 1975	December, 1975.
*Sandia Mountain	do	do	do	November 1973	April, 1975.
Mount Taylor Ski Area	do	Winter sports	Regional forester	December 1975	June, 1976.
Oak Creek	Coconino National Forest	Land use plan	Forest supervisor	May 1975	August, 1975.
Stumpwood Harvest	do	Timber plan	do	February 1975	Do.
Woods Canyon	do	Land use plan	do	March 1975	May, 1975.
Anamax land exchange	Coronado National Forest, Ariz.	Land exchange	Regional forester	July 1975	December, 1975.
Huachuca	do	Land use plan	Forest supervisor	March 1975	September, 1976.
Off-road vehicle	do	do	do	February 1976	June, 1976.
*Santa Catalina	do	do	do	March 1975	August, 1975.
South Kaibab	Kaibab National Forest, Ariz.	Resource plan	Regional forester	April 1975	Do.
Williams land use plan	do	Land use plan	Forest supervisor	September 1975	March, 1976.
Eagle Creek Dam and Reservoir	Lincoln National Forest, N. Mex.	do	do	October 1975	Do.
Guadalupe	do	do	do	July 1975	January 1976.
Phelps-Dodge	Prescott National Forest, Ariz.	Land exchange	Regional forester	March 1975	July 1975.
Clarkdale-Williams Highway No. 279	do	Road	do	February 1972	September 1975.
Timber management plan	do	Resource plan	do	June 1975	Do.
Gallina unit plan	Santa Fe National Forest, N. Mex.	Land use plan	Forest supervisor	do	December 1975.
*Pecos land use plan	do	do	do	December 1975	June 1976.
*Reclassification of dome roadless area	do	do	do	February 1975	June 1975.
Cholla project	Tonto, Apache, Sitgreaves National Forests, Ariz.	do	Regional forester	August 1974	April 1975.
Salt River project, Pinnacle Peak Goldfield transmission line.	Tonto National Forest, Ariz.	Powerline	do	October 1975	January 1976.
Mogollon Rim	Tonto, Apache-Sitgreaves, Coconino National Forests, Ariz.	Land use plan	Forest supervisor	January 1974	May 1975.
Plant control program	Regionwide	Land treatment	Regional forester	April 1974	April 1975.
Vegetation control by mechanical, chemical and fire treatment in Arizona and New Mexico.	Apache-Sitgreaves, Carson, Gila, Coconino, Tonto, Coronado, Lincoln National Forests, Ariz.	do	do	June 1974	Do.
Arizona adjustment plan	Apache-Sitgreaves, Coconino, Kaibab, Prescott, Tonto National Forests, Ariz.	Landownership	do	December 1974	March 1975.
Intermountain Region, Region 4: USDA, Forest Service, 324—25th St., Ogden, Utah 84401:					
Timber management plan	Ashley National Forest, Utah.	Resource plan	do	June 1975	December 1975.
Long Park Reservoir	do	Reservoir construction	Forest supervisor	do	Do.
*Bear Valley planning unit	Boise National Forest, Idaho.	Land use plan	do	December 1974	March 1975.
*Idaho City planning unit	do	do	do	March 1975	June 1975.
*Landmark planning unit	do	do	do	do	Do.
*Middle Fork Boise planning unit	do	do	do	do	Do.
Shafer planning unit	do	do	do	do	Do.
*South Fork Payette planning unit	do	do	do	January 1975	May 1975.
*South Fork Salmon planning unit	Boise and Payette National Forests, Idaho.	do	do	do	Do.

FOREST SERVICE ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1975—Continued

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
Intermountain Region, Region 4: USDA, Forest Service, 324—25th St., Ogden, Utah 84401:—Con.					
*Garden Valley planning unit	Boise National Forest, Idaho.	do	do	March 1975	June 1975.
*Squaw Creek planning unit	do	do	do	April 1975	Do.
*Cascade planning unit	do	do	do	March 1975	Do.
*Big Piney planning unit	Bridger-Teton National Forest, Wyo.	do	do	do	Do.
*West Slope of Wind River Mountains planning unit.	do	do	do	July 1975	November 1975.
*Union Pass planning unit	do	do	do	March 1975	July 1975.
*Greys-Salt River planning unit	do	do	do	June 1975	September 1975.
*Timber management plan	do	Resource plan	Regional forester	July 1975	October 1975.
Bighorn Winter Sports site	Caribou National Forest, Idaho.	Winter sports	Forest supervisor	November 1974	July 1975.
*Pioneer Mountains	Challis, Sawtooth National Forest, Idaho.	Land use plan	do	March 1975	June 1975.
*Boulder Mountain	Dixie National Forest, Utah.	do	do	October 1974	March 1975.
*Markagunt Plateau	do	do	do	April 1975	August 1975.
*Paunsagunt-Sevier	do	do	do	October 1975	March 1976.
*Salina unit plan	Fishlake National Forest, Utah.	do	do	April 1975	October 1975.
*Mount Moriah	Humboldt National Forest, Nev.	do	do	July 1975	December 1975.
*Ruby Mountains	do	do	do	December 1974	April 1975.
*Monticello planning unit	Manti-LaSal National Forest, Utah.	do	do	April 1975	August 1975.
*Moab planning unit	Manti-LaSal National Forest, Colo.-Utah.	do	do	July 1975	November 1975.
*Council planning unit	Payette National Forest, Idaho.	do	do	June 1975	December 1975.
*McCall planning unit	do	do	do	December 1975	March 1976.
*New Meadows planning unit	do	do	do	May 1975	November 1975.
*Warren planning unit	do	do	do	December 1974	April 1975.
Payette timber management plan	do	Resource plan	Regional forester	April 1975	June 1975.
Boulder planning unit	do	Land use plan	Forest supervisor	December 1975	April 1976.
*Beartrap-Dutchler planning unit	Salmon National Forest, Idaho.	do	do	August 1975	January 1976.
*Red Rock planning unit	do	do	do	October 1974	March 1975.
*Twelvemile planning unit	do	do	do	October 1975	March 1976.
*Moose Creek Basin planning unit	do	do	do	March 1975	July 1975.
Bigwood Ski Area	Sawtooth National Forest, Idaho.	Winter sport site	do	September 1974	May 1975.
*Black Pine planning unit	do	Land use plan	do	April 1975	August 1975.
*Sawtooth National Recreation Area, general management plan.	do	do	Regional forester	April 1974	April 1975.
*Albion planning unit	do	do	Forest supervisor	December 1975	April 1976.
*West Slope Tetons planning unit	Targhee National Forest, Idaho.	do	do	April 1975	August 1975.
*Island Park planning unit	do	do	do	June 1975	October 1975.
*Central Nevada land use	Toiyabe National Forest, Nev.	do	do	March, 1975	August 1975.
*Four Seasons Ski area	Uinta National Forest, Utah.	Winter sport site	do	September 1975	March 1976.
Strawberry planning unit	do	Land use plan	do	June 1975	January 1976.
*North Slope of the High Uintas land use plan	Wasatch National Forest, Utah.	do	do	April 1975	September 1975.
*Kamas land use plan	do	do	do	September 1975	January 1976.
California Region, Region 5: USDA, Forest Service, 630 Sansome St., San Francisco, CA 94111:					
*San Gabriel planning unit	Angeles National Forest, Calif.	do	do	November 1975	June 1976.
*Valencia planning unit	do	do	do	June 1977	December 1977.
Timber management plan	Lassen National Forest, Calif.	Resource plan	Regional forester	September 1974	April 1975.
*Almanor planning unit	do	Land use plan	Forest supervisor.	July 1975	November 1975.
Hayden Hill	Modoc National Forest, Calif.	do	do	December 1975	May 1976.
Timber management plan	do	Resource plan	Regional forester	December 1974	May 1975.
Medicine Lake	do	Land use plan	do	March 1977	September 1977.
Trabuco Canyon planning unit	Cleveland National Forest, Calif.	do	do	December 1975	May 1976.
*Palomar Mountain planning unit	do	do	do	February 7, 1975	June 1975.
Laguna-Morena planning unit	do	do	do	January 1976	June 1976.
*Trabuco District	do	do	do	December 1975	May 1976.
Eldorado National Forest timber management plan.	Eldorado National Forest, Calif.	Resource plan	do	May 1975	October 1975.
Volcanoville planning unit	do	Land use plan	Forest supervisor.	July 1975	Do.
*Lake Tahoe Basin	California and Nevada	do	Lake Tahoe administrator.	August 1973	June 1975.
*Sierra-Pacific powerline	Lake Tahoe and Toiyabe National Forest, Nev.	Transmission line	Regional forester	May 1975	September 1975.
*Mammoth planning unit	Inyo National Forest, Calif.	Land use plan	Forest supervisor	April 1975	August 1975.
June Lake planning unit	do	do	do	do	Do.
Mono basin planning unit	do	do	do	November 1976	March 1977.
Bishop Creek planning unit	do	do	do	May 1975	October 1975.
Mt. Whitney planning unit	do	do	do	June 1975	November 1975.
Inyo National Forest timber management plan	do	Resource plan	Regional forester	June 1976	October 1976.
*King planning unit	Klamath National Forest, Calif.	Land use plan	Forest supervisor	April 1975	September 1975.
*Grider planning unit	Klamath National Forestg	do	do	August 1975	February 1976.
Big Sur Coastal	Los Padres National Forest Calif.	do	do	June 1975	September 1975.
*Mount Pinos	do	do	do	do	December 1975.
*Middle Eel	Mendocino National Forest, Calif.	do	do	October 1975	March 1976.
Timber management plan	do	Resource plan	Regional forester	June 1975	October 1975.

FOREST SERVICE ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1975—Continued

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
California Region, Region 5: USDA, Forest Service, 630 Sansome St., San Francisco, CA 94111—Continued					
*Mohawk planning unit	Plumas National Forest, Calif.	Land use plan	Forest supervisor	August 1975	November 1975.
Plumas National Forest timber management plan	do	Resource plan	Regional forester	February 1975	August 1975.
Feather Falls planning unit	do	Land use plan	Forest supervisor	July 1976	November 1976.
Timber management plan	Angeles, Cleveland, Los Padres and San Bernardino National Forests, Calif.	Resource plan	Regional forester	October 1975	March 1976.
Big Bear Basin planning unit	San Bernardino National Forest, Calif.	Land use plan	Forest supervisor	May 1975	October 1975.
Mineral King	Sequoia National Forest, Calif.	Recreation	Regional forester	December 1974	July 1975.
*Little Kern planning unit	do	Land use plan	Forest supervisor	June 1975	December 1975.
Sequoia National Forest timber management plan	do	Resource plan	Regional forester	October 1975	March 1976.
*Upper Trinity planning unit	Shasta-Trinity National Forest, Calif.	Land use plan	Forest supervisor	November 1974	August 1975.
*Mount Shasta planning unit	do	do	do	December 1976	June 1977.
*NRA planning unit	do	do	do	June 1975	October 1975.
*Girard-McCloud planning unit	do	do	do	July 1976	December 1976.
*South Fork Mountain planning unit	do	do	do	February 1976	July 1976.
*Aspen-Horsethief	Sierra National Forest, Calif.	Timber salesg	do	September 1974	April 1975.
Sierra National Forest timber management plan	do	Resource plan	Regional forester	July 1975	December 1975.
Rancheria	do	Land use plan	Forest supervisor	August 1975	Do.
*Kings River planning unit	do	do	do	May 1976	November 1976.
*Upper San Joaquin planning unit	do	do	do	do	Do.
*Pineridge-Kaiser planning unit	do	do	do	do	Do.
Chiquito-Bass Lake planning unit	do	do	do	do	Do.
*Mariposa planning unit	do	do	do	do	Do.
*Eightmile-Blue Creek planning units	Six Rivers National Forest, Calif.	do	do	November 1974	June 1975.
*Siskiyou planning unit	do	do	do	June 1976	October 1976.
*Horse Linto planning unit	do	do	do	January 1976	June 1976.
*Truckee-Little Truckee planning unit	Tahoe National Forest, Calif.	do	do	September 1975	February 1976.
Tahoe National Forest timber management plan	do	Resource plan	Regional forester	August 1975	Do.
*Foresthill-Hell Hole planning unit	Eldorado and Tahoe National Forests, Calif.	Land use plan	Forest supervisor	June 1976	December 1976.
Pacific Northwest Region, Region 6: USDA, Forest Service, 319 Southwest Pine St., Portland, Oreg. 97208:					
*Willamette National Forest land use plan	Willamette National Forest, Oreg.	do	do	April 1975	September 1975.
Willamette National Forest 10-year timber management plan.	do	Resource plan	Regional forester	do	Do.
Breitenbush Geothermal Development	do	do	Forest supervisor	May 1975	October 1975.
*Chelan planning unit	Wenatchee and Mt. Baker-Snoqualmie National Forest, Wash.	Land use plan	Regional forester	March 1975	July 1975.
Naches Pass Road	do	Road construction	do	January 1975	October 1975.
Bren Mac Mines	Mt. Baker-Snoqualmie National Forest, Wash.	Access road and mining	Forest supervisor	September 1975	March 1976.
*Mt. Baker planning unit	do	Land use plan	do	August 1975	February 1976.
Oregon Dunes National Recreation Area	Siuslaw National Forest, Oreg.	Management plan	do	September 1974	July 1975.
*Quinalt unit	Olympic National Forest, Wash.	Land use plan	do	September 1975	February 1976.
Timberline Lodge	Mount Hood National Forest, Oreg.	Recreation site	do	September 1974	May 1975.
Mount Hood Timber management plan	do	Resource plan	Regional forester	April 1975	September 1975.
*Huckleberry planning unit	do	Land use plan	Forest supervisor	May 1974	July 1975.
Carey (Austin) Hot Springs	do	Resource plan	do	June 1976	December 1976.
*Twisp, Winthrop, Conconully planning unit	Okanogan National Forest, Wash.	Land use plan	do	July 1975	December 1975.
*Elkhorn	Wallowa-Whitman National Forest, Oreg.	Special interest area	do	June 1975	November 1975.
*Wallowa Valley	do	Planning unit	do	April 1975	September 1975.
*Clear Creek unit plan	Gifford Pinchot National Forest, Wash.	Land use plan	do	January 1975	July 1975.
*Upper Lewis unit plan	do	do	do	May 1975	November 1975.
*Bear Creek unit plan	do	do	do	do	November 1975.
Grandview planning unit	Ochoco National Forest, Oreg.	do	do	June 1975	January 1976.
*Ochoco 10-year timber management plan	do	Resource plan	Regional forester	September 1975	April 1976.
Ochoco off-road vehicle plan	do	Access plan	Forest supervisor	March 1976	December 1976.
*Ochoco planning unit	do	Land use plan	do	July 1976	October 1976.
*Mount Butler-Dry Creek	Siskiyou National Forest, Oreg.	do	do	March 1975	August 1975.
*Dumont, Quartz, Lost Creek	Umpqua National Forest, Oreg.	Roadless area	do	January 1975	July 1975.
*Fairview, Puddin Rock Canton-Steelhead	do	do	do	February 1975	Do.
East Deer Creek	Colville National Forest, Wash.	Land use plan	do	May 1975	November 1975.
*John Day planning unit	Malheur National Forest, Oreg.	do	do	August 1975	April 1976.
*South Fork planning unit	do	do	do	December 1975	July 1976.
*Silvies-Malheur planning unit	do	do	do	July 1975	November 1976.
*Oregon Butte	Umatilla National Forest, Wash.	do	do	do	December 1975.
*Elgin	do	do	do	November 1975	April 1976.
Newberry Crater Geothermal	Deschutes National Forest, Oreg.	Resource plan	Regional forester	July 1975	January 1976.
*Deschutes land use plan	do	Land use plan	Forest supervisor	January 1977	July 1977.
*Chemult unit	Winema National Forest, Oreg.	do	do	June 1975	October 1975.

FOREST SERVICE ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF MARCH 15, 1975—Continued

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with CEQ (or estimated date)	Estimated date of final
Southern Region, Region 8: USDA, Forest Service, 1720 Peachtree Rd., NW, Atlanta, Ga. 30309:					
Dugger Mountain	Talladega National Forest, Ala.	do	do	September 1975	April 1976.
Talladega timber management plan	do	Resource plan	Regional forester	July 1975	December 1976.
Chattooga River	do	do	do	February 1975	July 1975.
Lake Russell	do	do	do	June 1975	July 1976.
South Slope	do	do	do	December 1975	May 1976.
Upper Hiwassee unit	Cherokee National Forest, Tenn.	do	do	July 1974	July 1975.
Unaka unit plan	do	do	do	September 1975	February 1976.
Timber management plan	do	do	do	August 1975	January 1976.
Management of Beaver Creek unit	Daniel Boone National Forest, Ky.	Land use plan	Forest supervisor	July 1974	July 1975.
Management of Laurel River unit	do	do	do	July 1975	December 1975.
Management of Licking River unit	do	do	do	September 1975	February 1976.
Timber management plan Osceola National Forest	Osceola National Forest, Fla.	Resource plan	Regional forester	March 1975	October 1975.
Timber management plan Apalachicola National Forest.	Apalachicola National Forest, Fla.	do	do	do	Do.
Big Scrub	Ocala National Forest, Fla.	Land use plan	Forest supervisor	May 1975	November 1975.
Longleaf	do	do	do	December 1974	July 1975.
Chauga unit	FM and Sumter National Forest, S.C.	do	do	August 1974	Do.
Laurel Fork unit	George Washington, National Forest, Va.	do	do	February 1974	June 1976.
Piney River unit	do	do	do	October 1974	May 1975.
Ozone unit plan	Ozark National Forest, Ark.	do	do	June 1975	November 1975.
St. Francis unit plan	St. Francis National Forest, Ark.	do	do	August 1975	February 1976.
Vegetative management with herbicide use	Ozark-St. Francis National Forest, Ark.	Herbicide	do	May 1975	December 1975.
Caddo-Lyndon B. Johnson	National Forests, Tex.	Land use plan	do	October 1974	May 1975.
Conroe unit	do	do	do	May 1975	May 1976.
Massanutten unit	George Washington National Forest, Va.	do	do	do	December 1975.
Lower Jackson unit	do	do	do	August 1975	February 1976.
*Cave Mountain Lake unit plan	Jefferson National Forest, Va.	do	do	February 1974	August 1975.
Mount Rogers National Recreation Area	do	do	do	July 1975	July 1976.
High Knob unit plan	do	do	do	do	Do.
North Evangeline planning unit	Kisatchie National Forest, La.	do	do	March 1975	October 1975.
North Catahoula/South Winn unit plan	do	do	do	July 1975	December 1975.
Vernon unit plan	do	do	do	January 1976	June 1976.
Tchoutacabouffa unit plan	Desota National Forest, Miss.	do	do	March 1975	October 1975.
North Fork Catawba River and Buck Creek units	Pisgah National Forest, N.C.	do	do	May 1975	Do.
Management of Nantahala unit	North Carolina National Forest.	do	do	June 1975	November 1975.
Timber management plan	do	Resource plan	Regional forester	July 1975	December 1975.
Forks unit plan	Ouachita National Forest, Ark.	Land use plan	Forest supervisor	September 1974	June 1975.
Petit Jean unit plan	do	do	do	October 1974	May 1975.
Cossatot-Little Missouri unit plan	do	do	do	July 1975	December 1975.
South Fourche unit plan	do	do	do	September 1975	February 1976.
Ouachita National Forest off-road vehicle interim plan.	do	Recreation	do	August 1975	January 1976.
Maumelle-Saline unit plan	do	Land use plan	do	November 1975	April 1976.
Eastern Region, Region 9: USDA, Forest Service, 633 West Wisconsin Ave., Milwaukee, Wis. 53203:					
Timber management plan	Allegheny National Forest, Pa.	Resource plan	Regional forester	October 1975	February 1976.
Deerfield River (Mount Snow)	Green Mountain National Forest, Vt.	Land use plan	do	April 1975	September 1975.
Timber management plan	Ottawa National Forest, Mich.	Resource plan	do	October 1975	April 1976.
Off-road vehicle policy	Shawnee National Forest, Ill.	Land use plan	Forest supervisor	June 1976	December 1976.
Timber management plan	Superior National Forest, Minn.	Resource plan	Regional forester	September 1975	March 1976.
Kancamagus unit plan	White Mountain National Forest, N.H.	Land use plan	Forest supervisor	June 1975	September 1975.
Kilkenny unit plan	do	do	do	March 1975	June 1975.
Timber management plan	do	do	do	October 1974	April 1975.
Evans Notch unit plan	do	do	do	April 1976	July 1976.

REGIONAL OFFICE

Juneau, Alaska

Region 10

Title of Environmental Statement	Location of Proposal	Nature of Proposal (i.e., Land Use, Herbicide, etc.)	Responsible Official	Date Draft Filed w/CEQ (or est. date)	Estimated Date of Final
Alaska Region, Region 10: USDA Forest Service, Federal Office Bldg., Box 1628, Juneau, Alaska 99802:					
Alaska Region, Region 10: USDA Forest Service, Federal Office Bldg., Box 1628, Juneau, Alaska 99802:					
*Chugach land use plan (addendum)	Chugach National Forest, Alaska.	do	do		May 1975.
Alaska Region herbicide program	Region-wide	Herbicide	Regional forester	Feb. 20, 1975	Do.
*South Lindenberg Peninsula	Tongass National Forest, Alaska.	Land use plan	Forest supervisor	May 1975	August 1975.
*Latouche Island	Prince William Sound, Chugach National Forest, Alaska.	Timber sale	do	Feb. 11, 1975	May 1975.
*1976-86 Chugach National Forest, timber management plan.	Chugach National Forest, Alaska.	Functional plan	do	Mar. 1, 1976	July 1, 1976.
*Siwash Bay Sale	Prince William Sound, Chugach National Forest, Alaska.	Timber sale	do	Dec. 1, 1975	Mar. 15, 1976.
*Shelter Bay Sale	Hinchinbrook Island, Chugach National Forest, Alaska.	do	do	Feb. 1, 1976	May 5, 1976.
*W. Chichagof-Yakobi Island	Chatham area, Alaska	Land use study	Regional forester	April 1975	
*Freshwater Bay	do	Timber sale	Forest supervisor	do	June 1975.
*Basket Bay	do	do	do	March 1975	May 1975.
*Southern Chilkat	do	Land use study	do	March 1975	August 1975.
*Kadashan	do	Timber sale	Regional forester	October 1975	March 1976.
*Seal Creek	do	do	Forest supervisor	December 1975	
*Dangerous River	do	do	do	January 1976	
*Honker Divide land use plan	Prince of Wales, Ketchikan area, Alaska.	Land use plan	do	May 1975	November 1975.
*Long Island land use plan	do	do	do	do	October 1975.
*Karta land use plan	do	do	do	August 1975	February 1976.
Northeastern Area, USDA, Forest Service, 6816 Market St., Upper Darby, Pa. 19082: 1975 draft addendum, final spruce budworm project.	Maine	Herbicide	Area director	January 1975	April 1975.

FOREST SERVICE

Chief, Forest Service
US Department of Agriculture,
Washington, DC 20250.

REGION 1, NORTHERN REGION

(Montana, NE Washington, N. Idaho, North Dakota and NW South Dakota)

Regional Forester, Northern Region, US Forest Service, Federal Building, Missoula, Montana 59801.

REGION 2, ROCKY MOUNTAIN REGION

(Colorado, Kansas, Nebraska, South Dakota and Wyoming)

Regional Forester, Rocky Mountain Region, US Forest Service, Denver Federal Center, Bldg., 85, Denver, Colorado 80225.

REGION 3, SOUTHWESTERN REGION

(Arizona and New Mexico)

Regional Forester, Southwestern Region, US Forest Service, Federal Building, 517 Gold Ave., SW, Albuquerque, New Mexico 87101.

REGION 4, INTERMOUNTAIN REGION

(Utah, S. Idaho, W. Wyoming and Nevada)

Regional Forester, Intermountain Region, US Forest Service, Federal Building, 324 25th Street, Ogden, Utah 84401.

REGION 5, CALIFORNIA REGION
(California and Hawaii)

Regional Forester, California Region, US Forest Service, 630 Sansome Street, San Francisco, California 94111.

REGION 6, PACIFIC NORTHWEST REGION
(Washington and Oregon)

Regional Forester, Pacific Northwest Region, US Forest Service, 319 SW Pine Street, P.O. Box 3623, Portland, Oregon 97208.

REGION 8, SOUTHERN REGION

(Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia)

Regional Forester, Southern Region, US Forest Service, 1720 Peachtree Road NW., Atlanta, Georgia 30309.

REGION 9, EASTERN REGION

(Connecticut, Delaware, Illinois, Iowa, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia and Wisconsin)

Regional Forester, Eastern Region, US Forest Service, 633 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203.

REGION 10, ALASKA REGION
(Alaska)

Regional Forester, Alaska Region, US Forest Service, Federal Office Building, Box 1628, Juneau, Alaska 99801.

STATE AND PRIVATE FORESTRY AREAS

Note: State and Private Forestry offices are located in the Regional Headquarters with the exception of the following Areas:

NORTHEASTERN AREA STATE AND PRIVATE FORESTRY

(Connecticut, Delaware, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia and Wisconsin)

Director, Northeastern Area, S&PF, US Forest Service, 6816 Market Street, Upper Darby, Pennsylvania 19082.

SOUTHEASTERN AREA STATE AND PRIVATE FORESTRY

(Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia)

Director, Southeastern Area, S&PF, US Forest Service, 1720 Peachtree Road, NW, Atlanta, Georgia 30309.

RESEARCH HEADQUARTERS

FOREST AND RANGE EXPERIMENT STATIONS

Director, Pacific Northwest Experiment Station, US Forest Service, 1960 Addison Avenue, P.O. Box 3141, Portland, Oregon 97208.

Director, Pacific Southwest Experiment Station, US Forest Service, 1960 Addison Street, P.O. Box 245, Berkeley, California 94701.

Director, Intermountain Experiment Station, US Forest Service, 507 25th Street, Ogden, Utah 84401.

Director, Rocky Mountain Experiment Station, US Forest Service, 240 West Prospect Street, Fort Collins, Colorado 80521.

Director, North Central Experiment Station, US Forest Service, Folwell Avenue, St. Paul, Minnesota 55101.

Director, Northeastern Experiment Station, US Forest Service, 6816 Market Street, Upper Darby, Pennsylvania 19082.

Director, Southern Experiment Station, US Forest Service, Federal Building, T-10210, 701 Loyola Avenue, New Orleans, Louisiana 70113.

Director, Southeastern Experiment Station, US Forest Service, Post Office Building, P.O. Box 2570, Asheville, North Carolina 28802.

INSTITUTE OF TROPICAL FORESTRY (AND CARIBBEAN NATIONAL FOREST)

Director, Institute of Tropical Forestry, US Forest Service, P.O. Box AQ, Rio Piedras, Puerto Rico 00928.

FOREST PRODUCTS LABORATORY

Director, Forest Products Laboratory, US Forest Service, North Walnut Street, P.O. Box 5130, Madison, Wisconsin 53705.

[FR Doc.75-10059 Filed 4-18-75;8:45 am]

MAINE SPRUCE BUDWORM

1975 Final Addendum to 1974 Final Environmental Statement; Notice of Availability of Final Addendum

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service has prepared for 1975 activities, a Final Addendum to the USFS 1974 Cooperative Spruce Budworm Suppression Project in Maine, USDA-FS-NA(Adm.)-1.

The Final Addendum concerns a proposed cooperative aerial spray project on a maximum of 2,000,000 acres of state and private woodlands in Aroostook, Piscataquis, Penobscot, Somerset and Washington Counties, Maine, to protect forest resources from mortality by the spruce budworm. To accomplish these objectives, the insecticides mexacarbate, fenitrothion and carbaryl will be applied by aircraft.

This Final Addendum was filed with CEQ on April 15, 1975.

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

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

USDA, Forest Service
6816 Market Street, Room 409
Upper Darby, Pa. 19082

A limited number of single copies are available upon request to Robert D. Raisch, Director, Northeastern Area, State and Private Forestry, 6816 Market Street, Upper Darby, Pa. 19082.

Copies of the Final Addendum to the Environmental Statement have been sent to various Federal, State and local agencies as outlined in the CEQ guidelines.

KARL A. DAVIDSON,
Acting Director, Northeastern Area, State and Private Forestry.

APRIL 15, 1975.

[FR Doc.75-10382 Filed 4-18-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL INDUSTRIAL ENERGY CONSERVATION COUNCIL

Meeting

On Monday, March 24, 1975, a notice appeared in the FEDERAL REGISTER (40 FR 13015) announcing a meeting of the Sub-Council on Public Awareness of the National Industrial Energy Conservation Council for April 23, 1975, at 10 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

This meeting of the Sub-Council on Public Awareness has been cancelled.

HERBERT K. SCHMITZ,
Executive Director, National Industrial Energy Conservation Council.

[FR Doc.75-10506 Filed 4-18-75;9:15 am]

Office of the Secretary

COMMERCE TECHNICAL ADVISORY BOARD

Notice of Meeting

A meeting of the Department of Commerce Technical Advisory Board will be held on Wednesday, May 21, 1975, from 9:00 a.m. to 5:00 p.m., and Thursday, May 22, 1975, from 8:30 a.m. to 12:00 Noon in Room 6802, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Board was established to advise the Department of Commerce on technological issues of significant economic and social consequences and on the technical activities of the Department. Agenda items are as follows:

1. Final Report of the Sulfur Dioxide Control Technology Panel;
2. Commercial Utilization of Federally Funded Energy R&D;
3. Materials;
4. Licensing Agreements in International Cooperative Research and Development.

A limited number of seats will be available to the press and to the public. The public will be permitted to file written statements or inquiries with the Chairman before or after the meeting. Minutes of the meeting will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Persons desiring to obtain further information concerning the Board should contact Mrs. Florence S. Feinberg, Room 3877, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 967-5065.

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

APRIL 14, 1975.

[FR Doc.75-10282 Filed 4-18-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

OCCUPATIONAL SAFETY AND HEALTH

Applications for Certification of Certain Gas Detector Tube Units

In the FEDERAL REGISTER of May 8, 1973 (38 FR 11458), the Department adopted regulations which set forth the requirements and procedures for the evaluation and certification of gas detector tube units (42 CFR Part 84). In accordance with § 84.3(a) of the regulations, notice is hereby given that the National Institute for Occupational Safety and Health will accept applications for certification of gas detector tube units pursuant to the following schedule:

Gas	Dates for submittal	Test standard (parts per million)
1. Methane, Bromo- (CH_3Br) Methyl Bromide.	June 1 to June 30, 1975	15
2. Formaldehyde (CH_2O).	July 1 to July 31, 1975	2
3. Phosphine (PH_3).	August 1 to August 31, 1975.	0.3

All applications and any questions concerning the certification program should be submitted to the Institute's Testing and Certification Laboratory, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Dated: April 15, 1975.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.75-10312 Filed 4-18-75;8:45 am]

Food and Drug Administration

[FDA-225-75-4048]

ARTX TELECOMMUNICATION EQUIPMENT

Memorandum of Understanding With the Mississippi Department of Agriculture and Commerce

Pursuant to the notice published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35697), stating that future memoranda of understanding between the Food and Drug Administration and others would be published in the FEDERAL

REGISTER, the Commissioner of Food and Drugs issues the following notice:

The Food and Drug Administration executed a Memorandum of Understanding with the Mississippi Department of Agriculture and Commerce on March 12, 1975. The purpose of the memorandum is to establish the procedures and guidelines for the operation, maintenance, and protection of FDA-rented ARTX Telecommunication Equipment. It reads as follows:

MEMORANDUM OF UNDERSTANDING BETWEEN THE MISSISSIPPI DEPARTMENT OF AGRICULTURE AND COMMERCE AND THE FOOD AND DRUG ADMINISTRATION

I. *Purpose.* To establish the procedures and guidelines for the operation, maintenance and protection of FDA-rented ARTX Telecommunication Equipment located in Suite 1605, Walter Sillers Office Building, Jackson, Mississippi 39205.

II. *Background.* The FDA, Assistant Secretary for Health, Department of HEW, and the General Services Administration have approved a program to install full telecommunication transmit and receive terminals in a number of prime state food and drug agencies. Although terminals will be placed in a number of prime food and drug regulatory agencies, there are a number of other agencies with food and drug responsibilities in each state, where no terminal will be installed. Therefore, your agency, being one that received a terminal, must agree to share the terminal with other food and drug agencies in your state to assure that the communication system is accessible to all agencies with food and drug related responsibilities.

In addition to terminal-sharing, it is necessary for our two agencies to assure that proper operation and necessary supporting requirements for the equipment is maintained and proper security is provided for the equipment.

III. *Substance of Agreement.* A. The Food and Drug Administration agrees:

1. To arrange for the installation of the equipment in the location designated by your agency.

2. To support financially the cost of initial installation of the equipment and pay directly to GSA and Western Union the monthly rental cost. After the initial installation, the state will be responsible for relocation installation cost, unless relocation is in conjunction with a major move of the terminal agency to a new location address.

3. To identify for you those units in your state on which terminal-sharing must be accomplished.

4. To require that the terminal location agency (your agency) submit to FDA a terminal-sharing plan to be developed by you and other sharing units in your state.

5. To arrange through Western Union for training of terminal operators.

6. To provide operation instruction manual.

7. To withdraw financial support for the terminal if gross misuse of the terminal is practiced after due notice.

B. The State Terminal Agency agrees:

1. To provide suitable physical location for equipment with adequate security protection.

2. To provide and pay for electric power source to operate the terminal. (110 volts)

3. To provide for paper, tape and other material necessary for the operation of the equipment.

4. To share the terminal with other food and drug agencies in the state according to a terminal-sharing plan agreed to by each potential user.

5. To submit to the FDA Regional Office monthly traffic log. (Form to be furnished by FDA)

6. To submit promptly all messages received for addresses other than your agencies. Transmit promptly messages to FDA received from other appropriate agencies.

7. Maintain operator coverage for the terminal between normal working hours of your agency.

8. Notify vendor (Western Union) of any breakdown of the equipment or other needs for maintenance.

9. Notify FDA (Regional or Headquarters) of periods that the equipment is out-of-service.

10. That the system will be used *only* for communication between your state and FDA (Regional, District, or Headquarters Office). It is understood that the equipment is not to be used for communication between state agencies.

IV. *Name and Address of Terminal Agency.* Mississippi Department of Agriculture and Commerce, State Office Building, Jackson, Mississippi 39205.

V. *Liaison Officers.* For Mississippi Dept. of Agriculture and Commerce: Mr. John Ellis Holmes, Compliance Officer. Address: Suite 1605, Walter Sillers Office Building, Jackson, Mississippi 39205. Telephone No.: (601) 354–6734.

For FDA: Mr. Hayward E. Mayfield, Director. Address: Nashville District, 297 Plus Park Blv., Nashville, TN 37217. Telephone No.: (615) 749–5851.

VI. *Period of Agreement.* This agreement when accepted by both parties, will have an effective period of performance three (3) years from date of signature and may be modified by mutual consent by both parties or may be terminated by either party upon a thirty (30) day advance written notice to the other.

Approved and accepted for the Mississippi Dept. of Agriculture and Commerce:

MARK D. FREEMAN, Jr.,
Executive Asst.

Date: March 10, 1975

Approved and accepted for the Food and Drug Administration:

M. D. KINSLOW,
Regional Food and Drug Director, Region IV.

Date: March 12, 1975

Effective date. This Memorandum of Understanding became effective March 12, 1975.

Dated: April 15, 1975.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.75-10291 Filed 4-18-75;8:45 am]

Office of Education

ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

Notice of Public Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on May 14–16, 1975, at 9:00 a.m., local time, at the Sheraton-National Motor Hotel, Columbia Pike and Washington Boulevard, Arlington, Virginia.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authorities concerning the quality of training offered by education institutions and programs. It also serves to advise the Commissioner in fulfilling his statutory obligation to publish a list of State agencies which he has determined to be reliable authorities concerning the quality of public postsecondary vocational education in their respective State, pursuant to section 438(b) of the Higher Education Act of 1965, as amended by P.L. 92–318.

The meeting shall be open to the public from 9:00 a.m.–5:30 p.m., May 14, and from 10:00 a.m., May 15 until adjournment at 12:00 noon, May 16. During these sessions the Committee will review petitions by accrediting and State agencies for listing by the Commissioner, the Committee will hear presentations by representatives of the petitioning agencies, and the Committee will review policy items pertaining to accreditations and institutional eligibility.

Under authority of section 10(d) of the Federal Advisory Committee Act (P.L. 92–463) and clauses (4) and (6) of subsection (b) of section 552 of Title 5 of the United States Code, a session of the meeting from 9:00 a.m. to 10:00 a.m., May 15, will be closed to the public, if it is found that information exempt from public disclosure must be discussed. Closure of the meeting is to allow a free and frank discussion of the pending petitions for recognition and for renewal of recognition by accrediting and State approval agencies. These petitions typically contain financial information about institutions that has been given in confidence and the Committee, in order to evaluate the performance of the petitioning agencies, may wish to discuss such information. In addition, the petitions may occasionally contain information about the activities of individuals which, in the judgment of the Committee and the Commissioner, would, if publicly disclosed, result in a clearly unwarranted invasion of the personal privacy of such individuals. These portions of the petitions are exempt from disclosure under 5 U.S.C. 552(b) (4) and (6). Should the Chairman rule that discussion of such information is necessary in order to evaluate the merits of the petitions, the session from 9:00–10:00 a.m., May 15, will be used for that purpose. Records shall be kept of all Committee proceedings, and these will be available in the offices of the Accreditation and Institutional Eligibility Staff, Rooms 4068 and 4069, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

Signed at Washington, D.C., on April 4, 1975.

JOHN R. PROFFITT,
Director, Accreditation and Institutional Eligibility Staff, Office of Education.

[FR Doc.75-10315 Filed 4-18-75;8:45 am]

NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

Notice of Public Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act P.L. 92-463 that the next meeting of the National Advisory Council on Extension and Continuing Education will be held May 20-22, 1975, in the Centennial Room at the Denver Hilton Hotel, 1550 Court Place, Denver, Colorado. The meetings will begin at 9:00 a.m. on each day.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89-329. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report to the President and to the Secretary of Health, Education, and Welfare on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Council will be open to the public. The first two days the Council will hold meetings jointly with representatives of State Title I (HEA) Advisory Committees. The three main topics to be considered are: (1) Extension of funding of Title I; (2) Federal organization for coordination of extension and continuing education; and (3) improvement of the operation of Title I at the State level.

In addition, the Council will meet in regular session from 1:30 p.m. to 5:00 p.m. on Wednesday, May 21 and from 9:00 a.m. to noon on May 22. The agenda for this portion of the Council meeting will be devoted to consideration of Council plans for the coming year and related matters.

All records of Council proceedings are available for public inspection at the Council's Staff Office, located in Suite 710, 1325 G Street N.W., Washington, D.C.

LLOYD H. DAVIS,
Executive Director.

APRIL 15, 1975.

[FR Doc.75-10273 Filed 4-18-75;8:45 am]

Office of the Secretary

SOCIAL AND REHABILITATION SERVICE

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (34 FR 1279, January 25, 1969, as amended) is hereby further amended to reflect the reorganization of the Assistance Payments Administration. For such purposes, section 5.20—Organization and Functions is amended as follows:

By striking out all that follows under the heading "Assistance Payments Administration" and inserting in lieu thereof the following:

ASSISTANCE PAYMENTS ADMINISTRATION

The mission of the Assistance Payments Administration is to provide direction and leadership in the planning, development, coordination, and monitorship of administrative, financial assistance, and employment incentive aspects of public assistance, including assistance for U.S. nationals returned from foreign countries, as provided for under the Social Security Act and other applicable laws. The Assistance Payments Administration is administered by a Commissioner under the direction of the Administrator of the Social and Rehabilitation Service.

Office of the Commissioner—5Y01. The Commissioner, assisted by the Deputy Commissioner, provides executive direction and leadership to achieve maximally efficient, accurate, and effective delivery of financial assistance and employment incentive programs of the Assistance Payments Administration (APA), and assures that the legal, civil, and human rights of the public are fully safeguarded in relation to such programs. The Commissioner of APA: advises the Administrator, Social and Rehabilitation Service (SRS), on matters relating to financial assistance and employment incentive programs; coordinates the development, implementation, and monitoring of APA program objectives and operations with other SRS organizations; provides professional and technical consultation to Regional Commissioners and their staffs, and through them to State and local agencies, to enhance the delivery of the APA-administered programs to needy individuals; develops and recommends legislation, regulations, procedures, systems, organization models, and staffing patterns related to the APA programs; and develops and proposes the budget for the APA-administered programs.

Division of Income Maintenance Policy—5Y16. Develops regulations to implement the Social Security Act and other laws governing the income maintenance programs of Aid to Families with Dependent Children (including Federal Emergency Assistance, AFDC foster care payments, and the Unemployed Father Program); and Aid to the Aged, Blind, or Disabled in Guam, Puerto Rico, and the Virgin Islands.

Develops, proposes, and interprets regulations governing Federal/State income maintenance programs to include provisions such as: application for assistance; eligibility factors; need standards; determination and redetermination of eligibility; notifications; promptness standards; income and resource consideration and disregard; money, protective, and vendor payment; payment reduction and termination; fair hearing; safeguarding case information; work registration and other work-related activities; single State agency; statewideness; State Plan submittals; Federal financial participation; and program definitions.

Develops and reviews legislative proposals and enactments pertinent to policy development, and proposes legislation. Reviews court decisions relating to income maintenance.

Coordinates development of program regulations and their interpretation within APA, SRS, and HEW, and with other agencies whose programs relate to income maintenance. Provides technical assistance concerning program policies within the Department, to Regional Offices, and through Regional Offices to States and interested agencies.

Reviews State Plan materials in relation to Federal policies, either on request or as required by circumstances. Reviews various reports, such as those of the SRS Division of Quality Control Management, SRS Office of Field Operations, HEW Audit Agency, and the General Accounting Office, to determine program policy impacts and failures; and develops corrective actions, such as proposing legislation or revising regulations.

Responsible for liaison with: Department of Housing and Urban Development concerning housing policies, Department of Agriculture concerning Food Stamps, Bureau of Indian Affairs concerning related assistance programs, and Bureau of Supplemental Security Income concerning joint policy issues.

Division of Income Maintenance Procedure—5Y17. Reviews proposed income maintenance legislation and regulations for procedural implementation impacts and feasibility.

Develops, proposes, and interprets written procedures, which are in support of income maintenance regulations and which are designed to provide States with leadership and guidance in the most accurate and effective techniques of administering programs of Aid to Families with Dependent Children (including Federal Emergency Assistance, AFDC foster care payments, and the Unemployed Father Program); and of Aid to the Aged, Blind, or Disabled in Guam, Puerto Rico, and the Virgin Islands.

Procedural material developed for States includes models and guides for income maintenance mangement methods, including: organization and staffing; personnel aptitude and qualifications testing; personnel position descriptions, qualifications and performance standards; staff development; office layout and workflow; direct and indirect cost allocation; fiscal controls, accounting, reporting, and auditing; application/redetermination formats; verification; payment computation processes; time controls; data collecting, collating, recording, and reporting; case and other records control, maintenance, and disposition; work measurement, distribution, and control; long-range programing and budgeting;

statistical research, evaluation, and analysis; and training programs covering application, verification, eligibility determination/redetermination, payment computation, and other basic income maintenance functions.

Monitors the assistance payments functions as carried out by the Regional Offices, and coordinates reviews within APA and with appropriate SRS offices.

Reviews reports, such as those of the SRS Division of Quality Control Management, SRS Office of Field Operations, HEW Audit Agency, and the General Accounting Office, to determine program procedural impacts and failures; and develops corrective actions, to include proposing revision of procedures, organization, concepts, and training models. Provides liaison to SRS Audit Coordinator.

Provides technical assistance concerning program procedures within the Department, to Regional Offices, and on their request, to States and interested agencies. Coordinates development of program management methods and their interpretations within APA, SRS, and HEW, and with other agencies whose programs relate to income maintenance.

Division of Employment Incentives—5Y18. Develops proposed legislation, regulations, and procedures, in cooperation with the Department of Labor and other Federal agencies, to implement the Social Security Act and other laws governing employment incentive and public work programs.

In joint operation with the counterpart office of DOL, develops annual program objectives setting forth Work Incentive (WIN) program goals and operational milestones and conducts daily WIN activities.

Develops, with DOL, training programs and materials for information and service training for State and local WIN project staff, and provides the Department's staff support for the National Coordination Committee for WIN.

Provides technical assistance to Regional Office and State WIN administrative offices, analyses and reviews program activities through available reports and on-site visits, and recommends administrative and operational activities to carry out stated policies to meet program goals. Represents the Department in all management, administrative, and operational facets of the program; develops issue papers to focus upon specific program activities and policies; and recommends alternate courses of action. Provides staff support to joint activities in the field as well as in the National Office. Reviews data from the WIN Management Information System in accord with DOL, and recommends changes when necessary to better meet the information needs of program operators, and to respond to Congressional inquiries.

Acts as a focal point within SRS for intergovernmental coordination of implementation of the Comprehensive Employment and Training Act of 1973.

Assists policy evaluation and review staff of both Departments in the development of evaluation studies of the WIN program, and assists Departmental staff in the development and analysis of research programs. Monitors, in conjunction with DOL, Regional Office operations and, with Regional Office staff, local projects.

Division of Planning and Evaluation—5Y19. Provides APA components planning and programing guidance, and obtains their input as bases for coordinated development of proposed APA emergency, long-range, and short-range plans and programs. Has responsibility for APA program statistical research and analysis; trend and cost projecting and reporting; APA reports format, content, frequency, and quantity control; and energy and environmental impact analysis and reporting. Provides programmatic input to SRS research and evaluation efforts.

Initiates or, upon request of the Commissioner or APA components, develops statistical and narrative facts based on comparative analyses of data relating to State programs of income maintenance, fraud control, and employment incentives to establish their effectiveness and isolate ideal versus inadequate programs and processes of the various States. Prepares reports of analytical findings and recommends alternative courses of action to the Commissioner and APA components.

Develops annually, for the Commissioner and in coordination with APA staff elements, a proposed plan for the Operational Planning System (OPS), and provides on-going tracking capability of the objectives for the current year.

Provides technical assistance to the Commissioner, APA divisions, and the Regional Offices regarding APA program planning, research and statistics, energy and environmental impact analyses and reports, and the APA portion of the Operational Planning System.

Division of Administration—5Y20. Provides administrative support for all APA activities, including: budget development, execution, review, and reporting; and receipt of State Plan material transmitted by the Regional Offices for Central Office consultation or in response to requests for Central Office review, suspense control, coordination with APA staff elements for development of proposed APA findings, and referral of coordinated proposals to the Commissioner.

Has responsibility for editing regulations and other issuances (without policy control), and retyping, final preparation, issuance coordination, and suspense control; maintenance of approved State Plan characteristics; central policy and procedure reference and records files maintenance and disposition; and management of personnel, office space, supplies and equipment, travel and messenger services, and duplication.

Administers, develops, and proposes regulations and procedures governing the Repatriate Program.

Coordinates development of Bureau organization, functions, staffing, position descriptions, resources, and authorizations.

Monitors public assistance program costs, and controls APA administrative expenditures for travel, printing, binding, supplies, and other services for the current year, and provides budget review and analysis reports to the Commissioner.

Coordinates preparation of papers and correspondence for the Commissioner when input of more than one division is required, or assigned by the Commissioner.

Dated: April 15, 1975.

JOHN OTTINA,
Assistant Secretary for Administration and Management.

[FR Doc.75-10339 Filed 4-18-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing Production and Mortgage Credit

[Docket No. N-75-291]

NATIONAL MOBILE HOME ADVISORY COUNCIL

Notice of Meeting

In accordance with section 605 Title VI of the Housing and Community Development Act of 1974 (Pub. L. 93-383) and section 10(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92-463), announcement is made of the following Council meeting:

Name. National Mobile Home Advisory Council.

Place. Room 10233, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Proposed subject matter. Review of the initial Federal mobile home construction and safety standards.

MEETING AGENDA

MONDAY, MAY 5, 1975

9 a.m.	Introduction and welcome by Mr. David M. deWilde, Acting Assistant Secretary for Housing Production and Mortgage Credit—FHA Commissioner.
	Briefing on the Title VI program at the Department of Housing and Urban Development, and introduction of the principal staff.
	Selection of a Chairperson, Executive Committee, and of such other officers and committees as are deemed necessary — choosing of terms of members by lot.
10:30 a.m.	Briefing on the draft initial Federal mobile home construction and safety standards by Duane Keplinger, Chief, Standards Branch.
12 noon	Lunch.
1:30 p.m.	Discussion of space planning and fire safety standards.
4:30 p.m.	Adjourn.

TUESDAY, MAY 6, 1975

9 a.m.	Discussion of Construction and Energy Conservation Standards.
12 noon	Lunch.
1:30 p.m.	Discussion of Plumbing, Heating, Cooling, and Electrical Standards. Recommendations to the Secretary.
4:30 p.m.	Adjourn.

This meeting of the Advisory Council is open to the public.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Chairman of the Council may allow public presentation of oral statements during the meeting.

All communications regarding this Advisory Council should be addressed to:

Robert G. Hoag, Committee Management Officer, Department of Housing and Urban Development, Room 4266, 451 Seventh Street SW., Washington, D.C. 20410.

Issued in Washington, D.C., on April 17, 1975.

DAVID DEWILDE,
Acting Assistant Secretary for Housing Production and Mortgage Credit.

[FR Doc.75-10532 Filed 4-18-75;11:03 am]

Assistant Secretary for Equal Opportunity

[Docket No. N-75-269]

FAIR HOUSING ENFORCEMENT EFFORTS OF THE MISSOURI COMMISSION ON HUMAN RIGHTS

Cancellation of Public Meeting

On April 1, 1975, the U.S. Department of Housing and Urban Development published in the FEDERAL REGISTER (40 FR 14626) a notice of a proposed public fact-finding meeting to be conducted by the Assistant Secretary for Fair Housing and Equal Opportunity, pursuant to Section 106.3 of the Department's regulations establishing the procedure for scheduling fair housing public meetings (24 CFR 106.3) and Part 115 of the Department's regulations concerning recognition of substantially equivalent laws (24 CFR Part 115).

The Fair Housing Enforcement Efforts of the Missouri Commission on Human Rights to Relationship to Title VIII of the 1968 Civil Rights Act was the subject of the proposed meeting.

The meeting was scheduled to be held in Kansas City, Missouri, Thursday, April 24, 1975, beginning at 9 a.m., in the Hotel Radisson-Muehlebach, Lido Room, 12th and Baltimore Streets, Kansas City, Missouri.

Due to the Department's delay in the publication of the April 1, 1975, Notice, it is felt that insufficient time was given to interested groups, organizations and individuals to prepare for and make comments on the subject of the meeting. It has therefore, been decided that the subject meeting should be cancelled.

In the event the Department of Housing and Urban Development decides to reschedule this meeting at a subsequent date, appropriate Notice will be given according to Departmental regulations.

Dated at Washington, D.C., April 15, 1975.

GLORIA E. A. TOOTE,
Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc.75-10544 Filed 4-18-75;11:43 am]

Federal Disaster Assistance Administration

[Docket No. NFD 267 (FDAA-461-DR)]

KENTUCKY

Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Kentucky, dated March 29, 1975, and amended on April 5, 1975, is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 29, 1975:

The County of:
Fulton

(Catalog of Federal Domester Assistance No. 14.701, Disaster Assistance.)

Dated: April 14, 1975.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.75-10300 Filed 4-18-75;8:45 am]

[Docket No. NFD-266 (FDAA-3011-EM)]

LOUISIANA

Notice of Emergency Declaration and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11795 of July 11, 1974, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285; and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that on April 12, 1975, the President declared an emergency as follows:

I have determined that the impact of heavy rains and flooding on the State of Louisiana, beginning about March 14, 1975, is of sufficient severity and magnitude to warrant a declaration of an emergency under Public Law 93-288. I therefore declare that such an emergency exists in the State of Louisiana. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under executive Order 11795, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-74-285, I hereby appoint Mr. Joe D. Winkle, HUD Region VI, to act as the Federal Coordinating Officer for this declared emergency.

I do hereby determine the following areas in the State of Louisiana to have been adversely affected by this declared emergency:

The Parishes of:

Avoyelles	Franklin
Caldwell	LaSalle
Catahoula	Rapides
Concordia	

Dated: Apr. 12, 1975.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc.75-10301 Filed 4-18-75;8:45 am]

Office of Interstate Land Sales Registration

[Docket No. N-75-287]

CHAIN-O-LAKES

Notice of Hearing

In the matter of Chain-O-Lakes, OILSR No. 0-2124-29-90, Docket No. Y-956; pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Eagle Rock, Missouri, W. E. Ryan and Grace Ryan, owners, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq), received a Notice of Proceedings and Opportunity for Hearing issued February 24, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Chain-O-Lakes, located in Barry County, Missouri, contain untrue statements of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 10, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on April 28, 1975 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before April 21, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45 (b)(1).

This Notice shall be served upon the the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 7, 1975.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-10383 Filed 4-18-75;8:45 am]

[Docket No. N-75-286]

LITTLE SWANN LAKE

Notice of Hearing

In the matter of Little Swann Lake, OILSR No. 0-3508-13-41, Docket No. Y-1111; pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Little Swann Lake Association, Inc., Herbert Wilkins, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq), received a Notice of Proceedings and Opportunity for Hearing issued February 27, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Little Swann Lake, located in Warren County, Illinois, contain untrue statements of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 7, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C. on April 21, 1975 at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before April 14, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45 (b)(1).

This Notice shall be served upon the the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 7, 1975.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-10384 Filed 4-18-75;8:45 am]

[Docket No. N-75-288]

PENINSULA OAKS

Notice of Hearing

In the matter of Peninsula Oaks, OILSR No. 0-1304-49-45, Docket No. Y-913; pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d).

Notice is hereby given that:

1. Peninsula Development Company, John A. Lewis, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq), received a Notice of Proceedings and Opportunity for Hearing issued February 24, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Peninsula Oaks, located in Aransas County, Texas, contain untrue statements of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received March 11, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provision of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d): *It is hereby ordered*, That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on May 1, 1975, at 10:00 a.m.

The following time and procedure is applicable to such hearings: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before April 24, 1975.

6. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an ORDER Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: April 7, 1975.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-10385 Filed 4-18-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. EX 75-16; Notice 1]

SEBRING-VANGUARD, INC.

Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard

Sebring-Vanguard, Inc. of Sebring, Florida, has applied for a temporary exemption from certain Federal motor vehicle safety standards on the basis that compliance would cause substantial economic hardship.

The petitioner has previously applied for and received a 1-year exemption from Standards Nos. 103, 108 (S4.1.1.5 only), 206, and 208 on the basis that it would facilitate the development and field evaluation of a low-emission multi-purpose passenger vehicle (see notices at 38 FR 31556 and 39 FR 3710). On November 12, 1974 Sebring-Vanguard petitioned for a renewal of its exemption but after correspondence with this agency, has resubmitted its request, as a manufacturer of passenger cars, for exemption on a hardship basis. Meanwhile, its original exemption remains in effect pursuant to 5 USC 558(c) until the Administrator has made a final determination on the current petition.

Sebring was incorporated on May 15, 1973, and manufactured 650 electric powered motor vehicles in the 12-month period ending February 10, 1975. In the 18-month period from July 1, 1973, to December 31, 1974, net losses exceeded $425,000. Conformance problems still exist with respect to Standards Nos. 103 and 206. With reference to Standard 103, *Windshield Defrosting and Defogging Systems*, it states that a "low-voltage electric heater and defrosting system has [not] been developed by industry for use in small light-weight electric vehicles." And in relation to Standard 206, on door retention components, it says that because of "the nature of the light-weight, plastic, ABS bodies" it believes that the hinge load requirements cannot be met by vehicles with an unloaded weight of less than 1,000 pounds.

In addition, 3-year exemptions are requested from Standards Nos. 114, *Theft Prevention*, and 214, *Side Door Strength*. The petitioner argues that electric vehicles have no starter, the ignition key being used only "to complete a circuit." Substitution of a conventional steering assembly to provide a key-locking mechanism would "require complete redesign of our dashboard, our front-end, and front frame structure." It believes that Standard No. 214 is primarily directed to vehicles with an overall weight of between 2,500 to 4,000 pounds and that the side door strength requirements of the standard "are entirely out of proportion with the weight of the electric CityCar." Denial of the petition, it states, would force the company to cease operations.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: May 21, 1975.

Proposed effective date: Date of issuance of exemption.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410), delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on April 15, 1975.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.75-10397 Filed 4-18-75;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

NOTICE OF MEETING

Notice is hereby given in accordance with the Federal Advisory Committee Act, Pub. L. 92-463 and § 800.6(g) of the Advisory Council's Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800) that the regular meeting of the Advisory Council on Historic Preservation will be held on May 7-8, 1975, at 9:30 a.m., in Room 2008, 726 Jackson Place NW., Washington, D.C.

The Advisory Council was established by the National Historic Preservation Act of 1966, Pub. L. 89-665 to comment upon Federal, federally assisted and federally licensed undertakings having an effect upon properties listed in the National Register of Historic Places and to generally advise the President and Congress on matters relating to historic preservation. The Council's members are the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of the Treasury, the Secretary of Commerce, the Attorney General, the Secretary of Transportation, the Secretary of Agriculture, the Administrator of the General Services Administration, the Secretary of the Smithsonian Institution, the Chairman of the National Trust for Historic Preservation, and ten non-Federal members appointed by the President.

At a special session of the meeting, the Council will, in accordance with section 106 of the National Historic Preservation Act, consider the effect of the proposed construction of a visitor center by the National Park Service at George Rogers Clark National Historical Park, a property listed in the National Register of Historic Places. The Council will receive reports and statements on the undertaking in open session and then formulate its comments in executive session. The executive session will be closed to the public, as it has been determined to fall within exemption 5 of 5 U.S.C. section 522(b) and to be essential to protect the free exchange of internal Council views. The remainder of the meeting will be open to the public and will involve reports of the Council staff on various matters relating to historic preservation.

Written statements on the undertaking and its impact on historic properties should be submitted to the Council by May 5, 1975, to receive consideration. Persons wishing to make oral remarks to the Council should submit statements of position to the Council by the above date.

Agenda and additional information concerning the meeting and the submission of oral and written statements to the Council are available from the Executive Secretary, Advisory Council on Historic Preservation, Suite 430, 1522 K Street NW., Washington, D.C. 20005 (202) 254-3974.

Dated: April 16, 1975.

JOHN D. MCDERMOTT,
Acting Executive Secretary.

[FR Doc.75-10342 Filed 4-18-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 25441; Order 75-4-80]

AIRLINE TARIFF PUBLISHERS, INC. MEMBERS

Order Disapproving Agreement and Authorizing Discussions

Agreement filed pursuant to section 412 of the Federal Aviation Act of 1958, as amended, involving: Members of Airline Tariff Publishers, Inc., relating to joint fares; Docket 25441, Agreement C.A.B. 23940.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of April, 1975.

Pursuant to authority granted in Orders 73-7-7 and 73-8-58, meetings of carriers participating in the joint passenger tariffs of Airline Tariff Publishers, Inc., Agent (ATP) were held on August 15, 16 and 28, 1973, to discuss an agreement to automate the procedures for the publication and maintenance of joint fares in the tariffs issued by ATP.[1] As a result of such discussions, there has been filed with the Board, pursuant to section 412 of the Federal Aviation Act of 1958, as amended, an agreement on behalf of twenty-three carriers.[2] Seven carriers that were eligible to participate in the agreement elected not to do so.[3]

The agreement provides that ATP will file on behalf of the parties thereto a tariff containing such new and adjusted joint fares as will result from implementation of the provisions of the agreement, as soon as the agreement is approved by the Board and the necessary computer programming is obtained. Subsequent tariff filings implementing the agreement are to be made as soon as possible after each issuance of the appropriate data bank of the Civil Aeronautics Board's Origin-Destination Survey of Airline Passenger Traffic (O & D Survey), and at such other times as may be necessary to reflect a general adjustment in fare levels. The agreement further pro-

[1] ATP publishes the bulk of U.S. domestic and U.S.-Canada passenger fares and rules in various individual tariffs on file in both the United States and Canada.

[2] The carriers participating in the agreement are:

Air Canada*
Air West
Alaska Airlines, Inc.
Allegheny Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Canadian Pacific Airlines Limited*
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
Frontier Airlines, Inc.
National Airlines, Inc.
North Central Airlines, Inc.
Northwest Airlines, Inc.
Ozark Air Lines, Inc.
Pan American World Airways, Inc.
Piedmont Aviation, Inc.
Southern Airways, Inc.
Texas International Airlines, Inc.
Trans World Airlines, Inc.
United Air Lines, Inc.
Western Airlines, Inc.
Wien Air Alaska, Inc.

*Canadian carriers.

[3] The carriers electing not to participate in the agreement are:

Aloha Airlines, Inc.
Eastern Provincial Airways (1963) Limited*
Hawaiian Airlines, Inc.
Nordair LTEE—Nordair Ltd.*
Pacific Western Airlines, Ltd.*
Reeve Aleutian Airways, Inc.
Transair Limited*

*Canadian carriers.

vides for three subsequent meetings of the carrier parties thereto, as follows: 1. a meeting to discuss any changes to the agreement which may be necessary as a result of any conditions placed upon approval of the agreement by the Board, 2. a meeting to discuss fares and routings, and any changes thereto, which may be contained in any listing of fares and routings called for in the agreement, and 3. a meeting to discuss the agreement, and possible changes thereto, after the filing of the first tariff implementing the agreement.

Various provisions of the agreement establish criteria for the initial selection of routings for which joint fares will be considered, criteria for constructing the joint fares to be assigned to the selected routings, and criteria for the cancellation of existing joint fares.

The instant agreement was filed prior to the Board's final decision in Phase 4 of the *Domestic Passenger-Fare Investigation*[4], and its provisions are largely inconsistent with that decision.[5] In light of these inconsistencies, the agreement will be disapproved. The Board recognizes, however, that the carriers could not have anticipated the requirements of our Phase 4 decision in the instant agreement, and our disapproval is without prejudice to their refiling an agreement consistent with such requirements.

As a general matter, the Board believes that an agreement of the type proposed would represent a significant step forward, particularly insofar as it would result in the publication of additional fares which are presently available only by application of the carriers' fare construction rules. The majority of the fare errors the Board has noted in its previous ticket audits have resulted from the failure to correctly apply the fare construction rules, and specific publication of such fares should materially reduce these errors. Further, an agreement of the type proposed would eliminate much of the carrier paperwork now required for the routine maintenance of joint fares, and should thus improve the accuracy and completeness of the joint-fares tariff.

In short, we believe that many of the objectives we considered in authorizing the initial discussions continue to be valid, and that the carriers should be given another opportunity to reach an agreement consistent with such objectives and our Phase 4 decision. Accordingly, we will renew the discussion authority originally granted in Order 73–7–7, for a ninety-day period commencing with the effectiveness of the Phase 4 tariff. We will also continue to limit the discussion authority in the same manner as stated in Order 73–7–7 with respect to fare increases and modification in or cancellation of the fare construction rules as presently published.

The Board has repeatedly urged the carriers to implement procedures to reduce the number of errors made in constructing fares for travel involving more than one airline, and we continue to believe that the publication of additional joint fares represents one of the most meaningful ways to cut down on such errors. Phase 4 of the *Domestic Passenger-Fare Investigation* requires the publication of numerous additional joint-coach and standard-class fares between points within the continental United States, and establishes the maximum levels of such fares. The agreement proposed by the carriers, however, goes to additional fare classes, and to fares applying beyond the limits of the continental United States. While our Phase 4 decision has undoubtedly reduced the extent of the problem, we believe that sufficient problem areas remain to warrant the grant of additional discussion authority.

In reviewing the agreement filed by the carriers, we note that various provisions therein specify conditions under which joint fares will not be published. While there may be valid reasons for such provisions, we would encourage the carriers to file a joint fare for any routing used to any substantial degree by passengers if the fare for such routing is determined by the "hidden city" or "point beyond" provisions of the carriers' fare construction rules. Past experience has shown that these provisions are difficult to apply, and we believe that fares resulting from such provisions should be specifically published.

Acting pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 404, 412 and 414 thereof, the Board finds (1) that agreement C.A.B. 23940 is adverse to the public interest and in violation of the Act, and (2) that the discussion authority granted in Order 73–7–7 should be extended.

Accordingly, it is ordered that: 1. Agreement C.A.B. 23940 is hereby disapproved;

2. Air Canada, Air New England, Inc., Aloha Airlines, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Canadian Pacific Air Lines, Limited, Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Eastern Provincial Airways, (1963) Limited, Frontier Airlines, Inc., Hawaiian Airlines, Inc., Hughes Air Corp. d/b/a Hughes Airwest, National Airlines, Inc., Nordair LTEE—Nordair Ltd., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pacific Western Airlines, Ltd., Pan American World Airways, Inc., Piedmont Aviation, Inc., Reeve Aleutian Airways, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Transair Limited, Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and Wien Air Alaska, Inc., may engage in meetings at which the Board's representatives may be present, for a 90-day period extending from April 29, 1975, to discuss subject to the limitations set forth above the joint-fare matters set forth in the petition of Airline Tariff Publishers, Inc.,[6] in Docket 25441;

3. The Director of the Bureau of Economics shall be given at least 48 hours' notice of the time and place of any meetings called pursuant to the authority granted herein;

4. The carriers shall keep complete and accurate minutes of such discussions and a true copy of such minutes shall be filed with the Board's Docket Section not later than two weeks after the close of the discussions;

5. Any agreement or agreements reached as a result of such discussions shall be filed with the Board in accordance with section 412 of the Federal Aviation Act of 1958, and approved by the Board prior to being incorporated in a tariff filing or placed in effect; and

6. This order shall be served upon Air Canada, Air New England, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Canadian Pacific Air Lines, Limited, Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Eastern Provincial Airways, (1963) Limited, Frontier Airlines, Inc., Hawaiian Airlines, Inc., Hughes Air Corp. d/b/a Hughes Airwest, National Airlines Inc., Nordair LTEE—Nordair Ltd., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pacific Western Airlines, Ltd., Pan American World Airways, Inc., Piedmont Aviation, Inc., Reeve Aleutian Airways, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Transair Limited, Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., Wien Air Alaska, Inc., and Airline Tariff Publishing Company.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-10376 Filed 4-18-75;8:45 am]

[Dockets Nos. 27090, etc.; Order 75-4-75]

ALASKA AIRLINES, INC., ET AL.

Hazardous Materials Embargoes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 15th day of April, 1975.

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[4] Orders 74–3–80 and 74–12–108

[5] For example, the agreement provides that new joint fares will not be published (1) in markets with 100 or more sample passengers where 90% or more of the traffic moves via single-carrier service or (2) if the lowest local fare for any segment of the joint-fare routing exceeds the lowest local fare between the origin and destination, whereas our Phase 4 decision does not permit such exclusions. The agreement also establishes maximum joint coach and standard-class fares at a level equal to the sum of the local fares less $4.00 for each interline connection, whereas our Phase 4 decision establishes as a maximum the sum of the local fares less $13.89 for each interline connection.

[6] Subsequent to the filing of the petition in Docket 25441, Airline Tariff Publishers, Inc., was reorganized, and its functions have been assumed by Airline Tariff Publishing Company.

Embargoes and tariff provisions refusing certain hazardous materials proposed or in effect for Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Hawaiian Airline, Inc., Hughes Air Corp. (d/b/a Hughes Airwest), National Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc.; Dockets 27090, 27380, 27382, 27428, 27488, 27494, 27495, 27509, 27518, 27519, 27520, 27521, 27537, 27545, 27546, 27549, 27554, 27560, 27588, 27655.

By Order 75–2–127, dated February 28, 1975, the Board, *sua sponte*, rejected the various embargoes filed by a number of carriers [1] which gave notice that the carriers were refusing or substantially limiting carriage of all shipments of hazardous materials. The grounds for such rejection were essentially that the embargoes were in divergence from the regulations of the Federal Aviation Administration (FAA) and from proposals or legislation to modify them; that the embargoes would prohibit the carriage of many items necessary for medical purposes; that the embargoes were in derogation of the carriers' obligation to provide adequate service; and that, under these circumstances, it is clear that the Board's embargo regulations would not apply.

In addition, embargoes have been filed by American Airlines, Inc. (American), Delta Air Lines, Inc. (Delta), Continental Air Lines, Inc. (Continental), Hughes Air Corp., d/b/a Hughes Airwest (Airwest), United Air Lines, Inc. (United), and Western Air Lines, Inc. (Western) prohibiting radioactive materials aboard passenger-carrying aircraft, subject to exceptions principally for human medical purposes. Tariff provisions are in effect or proposed for American, Continental, Delta, Eastern, Frontier, National, and United containing similar restrictions. Pursuant to Part 228 of the Board's economic regulations (14 CFR 228.2(b)), most of the aforementioned carriers have filed applications to extend their embargoes, and, in most cases, the initial 30-day embargo period has elapsed.

Complaints have been filed by the Department of Transportation (DOT) requesting rejection of the embargoes (both those already rejected by Order 75–2–127, *supra*, as well as others filed) and proposed extensions of embargoes, and rejection or, in the alternative, suspension and investigation of the various tariff restrictions directed to radioactive materials. The complaints allege, *inter alia*, that FAA acting under delegated authority from the Secretary of Transportation, has promulgated regulations prescribing uniform regulation in the classification, packaging, marking, and labeling of all hazardous materials for transportation by air, including regulations for radioactive materials transported by air; that because FAA exercises exclusive jurisdiction to regulate safety in air commerce and has, by regulation, provided for the safe carriage of radioactive and other hazardous materials, individual carriers are legally precluded from engaging in *ad hoc* regulation of the transportation of these materials in derogation of the statutory authority and responsibility of DOT; and that the carriers are required by the Federal Aviation Act to provide for the common carriage of property, and in particular, to accept shipments of properly packaged and labeled hazardous materials, including radioactive materials, under their existing tariff rules and in general conformity with the regulations of FAA. Further, the complainant asserts that the radioactive materials proposed to be excluded, when properly packaged and labeled in accordance with FAA regulations, can be transported by air without materially jeopardizing health or safety; that radioactive materials having identical properties and tendered in identical quantities but intended for uses other than those referenced in these tariffs or embargoes and which would therefore be rejected by the carriers, pose no greater threat to health or safety than those materials allowed under the restrictions; and that these restrictions are at variance with section 108(a) of the Transportation Safety Act of 1974 and with FAA's proposed implementing regulations pending in Docket 14249 (Notice 75–2).

Various carriers and the Air Line Pilots Association, International (ALPA) have filed answers in support of these embargoes or tariff provisions.[2] ALPA, in addition, has filed a petition in Docket 27588 for reconsideration and for stay of Order 75–2–127.[3] The filings variously assert, *inter alia*, that the restrictions embodied in the embargoes or tariffs are in response to a decision by ALPA calling upon its members to refuse to carry shipments of certain hazardous materials on passenger aircraft. Operation S.T.O.P. is a program adopted by ALPA for effectiveness February 1, 1975, under which the Association bans the carriage on passenger aircraft of all items defined as hazardous materials in FAA Regulations, the carriers' restricted articles tariff, or the IATA Restricted Articles Regulations, with certain exceptions primarily for medical purposes. ALPA's pleadings essentially allege lack of enforcement and compliance with existing regulations, and are accompanied by a number of exhibits including, among other things, copies of accident reports, a report by the General Accounting Office evaluating FAA's procedures regarding inspection and enforcement in regulation of transportation of hazardous materials, testimony before Congressional committees on this subject, a report by the Atomic Energy Commission, and a number of letters between ALPA and DOT concerning allegations of lack of enforcement and compliance with existing regulations. ALPA contends, further, that the carriers have a right under sections 404 and 1111 of the Federal Aviation Act of 1958 (the Act) to surpass the government's minimum safety standards and reject cargo which they deem inimical to safety of flight. In support of this contention, ALPA alleges that DOT/FAA Regulations do not require anyone to accept any cargo. They only allow the acceptance of properly labeled, packaged, etc., hazardous materials, and ALPA asserts that the Board's own regulations are to the same effect citing 14 CFR 221.104, 221.38(a)(5), and 228.1. In addition, the carriers assert that they are temporarily unable to perform normal transportation services for such articles because of delays in gaining agreement among the industry, ALPA, FAA, and DOT regarding the carriage of materials classified as hazardous and considered to be a potential safety hazard for airline passengers and crew members, and that substantial confusion and conflict exist among interested parties in the industry concerning the adequacy and enforcement of safety regulations governing the transportation of hazardous materials.

Upon consideration of the complaints filed by DOT, the answers thereto, the various embargoes filed with the Board and the applications for extensions thereof, the ALPA petition for reconsideration of Order 75–2–127, and all relevant matters, the Board has concluded (1) to grant DOT's requests relating to restricted materials to the extent of rejecting carriers' embargoes not previously rejected by Order 75–2–127; (2) to deny the various carriers' applications for authority to extend embargoes and to reject tariff filings which would similarly restrict the carriage of hazardous ma-

[1] Alaska Airlines, Inc. (Alaska), Allegheny Airlines, Inc. (Allegheny), Eastern Air Lines, Inc. (Eastern), Frontier Airlines, Inc. (Frontier), Hawaiian Airlines, Inc. (Hawaiian), Ozark Air Lines, Inc. (Ozark), Piedmont Aviation, Inc. (Piedmont), Trans World Airline, Inc. (TWA), and Western Air Lines, Inc. (Western).

[2] The carriers filing answers to DOT's complaints are Alaska, Allegheny, Delta, Eastern, Frontier, Airwest, Ozark, TWA, United, Hawaiian, Piedmont, and Western.

[3] By Order 75–3–61, dated March 19, 1975, the Board denied the request for stay and deferred action on the petition for reconsideration. In addition, ALPA petitioned the United States Court of Appeals for the Second Circuit for a review of Order 75–2–127, and for a stay of such order pending review. The Court has granted ALPA's request for a stay.

terials; [4] and (3) to deny the ALPA petition for reconsideration in Docket 27588.

Section 404(a) of the Act places upon every air carrier holding a certificate of public convenience and necessity an affirmative duty to provide and furnish adequate air transportation as authorized by its certificate. The Congress has subjected the prerogative of the carriers to refuse to transport hazardous materials to reasonable rules and regulations prescribed by the Administrator of FAA (section 1111 of the Act). Title VI of the Act places the duty upon the Administrator to prescribe reasonable rules and regulations governing such practices as the Administrator may find necessary to provide for safety in air commerce. And the Administrator has prescribed at length what material may be carried in passenger-carrying aircraft as well as on all-cargo aircraft, the permissible amounts and packaging requirements therefor, what materials may not be carried, etc. (14 CFR Part 103).

Moreover, pursuant to the Transportation Safety Act of 1974, enacted January 3, 1975, the Secretary of Transportation is required to issue within 120 days of the passage of the law, regulations prohibiting any transportation of radioactive materials on any passenger-carrying aircraft "unless the radioactive materials involved are intended for use in, or incident to, research, medical diagnosis, or treatment, so long as such materials as prepared for and during transportation do not pose an unreasonable hazard to health and safety." To implement the Transportation Safety Act, FAA is currently considering a rulemaking proposing amendments to its regulations (Docket 14249, Notice 75–2) that would permit the shipment of safe radioactive materials "intended for use in, or incident to" research of any kind, and for nonhuman as well as human medical diagnosis or treatment.

The Board has previously accepted in principle the primary responsibility of DOT for regulations on the transportation of hazardous materials, including radioactive materials, by air. Further, the Board's regulations (§ 221.38(a)(5)) provide that tariff rules relating to the transportation of restricted articles shall be in conformity with Part 103 of the Federal Aviation regulations.[5] The FAA Administrator having thus preempted this area of regulation, no basis remains to conclude that carriers are free to pick and choose their traffic. It is clear that Congress intended any carrier's refusal to transport property for safety reasons to be subject to reasonable rules and regulations prescribed by the FAA Administrator. By answer in opposition to the ALPA petition, DOT similarly asserts that section 1111 does not confer a warrant for carriers to refuse transportation of hazardous materials which conform with applicable DOT/FAA regulations.

The embargo regulations are not available to carriers for their declarations to the shipping and consuming public as to what freight they will *thereafter refuse* to carry. Its application is limited to a carrier's *temporary inability* to accommodate traffic it acknowledges it would be obligated, but for the inability, to carry. The Board thus has no present occasion to determine the extent or nature of a carrier's right under Section 1111 to refuse, on safety-related grounds, to carry particular freight. That determination can only be made in an enforcement proceeding on consideration of the specific facts of a specific refusal to carry wherein section 1111 was advanced in defense of the refusal (see footnote 4, *supra*).

In denying ALPA's request for reconsideration, the Board has carefully considered the petitioner's contentions and its answers to the DOT complaints and other matters before it, and finds no basis to depart from its conclusions set forth in acting upon the ALPA motion for a stay in Order 75–3–61. In sum, section 404(a) of the Act imposes an obligation to carry upon the airlines holding certificates of public convenience and necessity, the public interest requires movement of the traffic which is prohibited by the embargoes and tariffs, and the right of the carriers to refuse to transport under Section 1111 of the Act is subject to reasonable rules and regulations prescribed by the Administrator. Moreover, ALPA's allegation that the Board errs in concluding that items necessary for medical purposes are embargoed is inappropriate, in that ALPA's contention that its S.T.O.P. program exempts a variety of medical materials is an allegation directed to its program, and not to the embargoes filed by the carriers with the Board.[6]

The scope of the embargoes, even if it could be determined that the embargo regulations applied to this situation, and of tariff provisions effective or proposed to become effective is in divergence from FAA Regulations and any proposals or legislation to modify them. These embargoes and tariff provisions would prohibit the carriage of many items necessary for nonhuman medical and various research purposes, and are in derogation of the carriers' common-carrier obligation to carry and their statutory obligation to provide adequate service. Even in situations where applicable, the Board's embargo regulations specifically provide that they shall not be construed as relieving any air carrier of any duty otherwise imposed upon it to furnish authorized transportation service or to observe all requirements of the Federal Aviation Act and the rules and regulations thereunder. The Board does not consider that its embargo regulations embrace the matters set forth in the carriers' embargo notices considered herein. The Board will, as indicated, deny the petition for reconsideration of Order 75–2–127, rejecting embargo notices filed by nine carriers, and further reject the embargo notices filed by other carriers relating to radioactive materials which are more restrictive than present

[4] The complaint of DOT in Docket 27521 against various tariffs was drafted as a tariff complaint under subpart E of the Board's Rules of Practice (Section 302.500 *et. seq.*), its complaint in Docket 27520 against embargoes was drafted as an enforcement complaint under subpart B (Section 302.200 *et. seq.*), and its first complaint, Docket 27488, involved both tariffs and embargoes and included the affidavit prescribed in enforcement proceedings under subpart B. This order, as did Order 75–2–127, considers the question or rejection as essentially a prospective matter. We note, however, that all parties have had the opportunity to file pleadings directed to the issues herein under either subpart B or E of the Board's Rules of Practice. Our action herein is without prejudice as to such procedures that may be initiated by the Board's Bureau of Enforcement with respect to allegations that the carriers have failed to provide adequate service. As the Board noted in Order 75–3–61 denying ALPA's request for a stay of Order 75–2–127, the Board has not purported to determine whether DOT/FAA Regulations are minimum or minimum and maximum standards, nor was the order premised upon any theory that the airlines' obligations to carry traffic stems from those regulations. Moreover, the Board has not ruled upon the question of the extent of the authority of an air carrier under Section 1111 to refuse to carry a particular shipment of hazardous goods based upon the circumstances relating specifically to that shipment.

[5] The Board notes DOT's statement that the carriers have failed to request modification of existing rules governing the carriage of hazardous materials instead of proceeding with tariff restrictions in violation of existing regulations.

The Board does not condone the carriers' filing of restrictions without obtaining the necessary modification of FAA Regulations. We believe it most important, however, that expedited procedures be available to enable a carrier to obtain an FAA decision on its proposals in a relatively short period of time (*e.g.*, 30 days), even if the proposal is to be approved only for an interim period. Once the carrier has received such approval, it could then file the appropriate tariffs for either interim or indefinite duration. We have previously ruled that in the absence of such a procedure, the Board has "no choice but to reject the tariff for nonconformance with Part 103" (Order 74–11–1, dated November 1, 1974, at page 3).

[6] The Board has noted ALPA's reference to an aircraft accident report of the National Transportation Safety Board (NTSB) with particular reference to the conclusion therein that a contributing factor was the general lack of compliance with existing regulations governing the transportation of hazardous materials which resulted from the complexity of the regulations, the industrywide lack of familiarity with the regulations at the working level, the overlapping jurisdictions, and the inadequacy of government surveillance. ALPA, however, fails to note that, in a letter referred to therein and made a part thereof, the NTSB report had considered the ALPA contention made in that proceeding that all restricted materials should be banned from interstate air transportation. The NTSB rejected this contention, stating "The Safety Board shares the Association's concern, but believes that conscientious compliance with current regulations and procedures would obviate such a drastic step." In summary, NTSB has considered and rejected prior proposals of ALPA which would have effected a complete embargo upon all restricted materials.

or proposed regulations of DOT/FAA. The Board will deny all applications to extend the embargoes rejected by this order or by Order 75–2–127.

The tariff provisions proposed or in effect for American, Continental, Delta, Eastern, Frontier, National, TWA, and United that restrict the carriage of hazardous materials permitted by present or proposed DOT/FAA regulations present essentially the same problems as discussed above for embargoes. However, as to refusals to carry hazardous articles pursuant to tariffs, the Board must defer to the position of DOT/FAA to the effect that freight which complies with FAA regulations must be accepted for carriage by the carriers, and that Section 1111 does not permit their refusal. These tariffs are not consistent with § 221.38(a)(5) of the Board's economic regulations and will be rejected pursuant to the provisions of section 403 of the Act and Subpart O of Part 221 of the Board's regulations.

The United States Court of Appeals for the Second Circuit, by an order dated March 25, 1975, in *Air Line Pilots Association Int'l v. Civil Aeronautics Board*, No. 75–4049, granted a motion filed by ALPA for a stay of Board Order 75–2–127 to preserve the *status quo*, pending its appeal. In these circumstances and consistent with the Court's action the Board will stay the effectiveness of its order, pending determination by the Court of the issues before it in Case No. 75–4049.[1]

This order will nevertheless be issued, served upon all parties, and published in the FEDERAL REGISTER to apprise all interested persons of the Board's opinions and decisions upon the issues now before it, subject, however, to the aforesaid provisions for a stay.

Accordingly, pursuant to the provisions of the Federal Aviation Act of 1958, and particularly sections 204(a), 401, 403, 404, 1002, 1006, and the provisions of Parts 221 and 228 of the Board's economic regulations (14 CFR Parts 221 and 228),

It is ordered that: 1. Subject to the conditions and provisions set forth in ordering paragraph 2 herein:

A. Embargo Notice No. AA 1–75 filed by American Airlines, Inc., Embargo Notice No. 4 filed by Continental Air Lines, Inc., Embargo Notice No. 4–74 filed by Delta Air Lines, Inc., Embargo Notice No. 5 filed by Hughes Air Corp. d/b/a Hughes Airwest, Embargo Notice No. 1–75 filed by United Air Lines, Inc., and Embargo Notice No. WA–C CE02 filed by Western Air Lines, Inc. are rejected;

B. The applications for authority to extend embargoes filed by American Airlines, Inc. in Docket 27537, Delta Air Lines, Inc. in Docket 27428, Hughes Air Corp. d/b/a Hughes Airwest in Docket 27546, and United Air Lines, Inc. in Docket 27545 are denied;

C. The application for authority to extend embargoes filed by Alaska Airlines, Inc. in Docket 27554, Allegheny Airlines, Inc. in Docket 27494, Eastern Air Lines, Inc. in Docket 27495, Frontier Airlines, Inc. in Docket 27519, Hawaiian Airlines, Inc. in Docket 27549, Ozark Air Lines, Inc. in Docket 27560, Piedmont Aviation, Inc. in Docket 27509, and Western Air Lines, Inc. in Docket 27518 are denied;

D. 28th Revised Page 70, 15th, Revised Page 128, 9th Revised Page 148, 36th Revised Page 160, 14th Revised Page 160–A, 14th Revised Page 160–B, and 15th Revised Page 160–D of C.A.B. No. 82, issued by Airline Tariff Publishing Company, Agent, are rejected, effective 14 days after the effective date of this order;

E. The petition for reconsideration of Order 75–2–127 filed by the Air Line Pilots Association, International in Docket 27588 is denied;

F. Except to the extent granted herein, the complaints of the Department of Transportation in Dockets 27521 and 27655, the American Medical Association in Docket 27380, the American College of Radiology in Docket 27382, and Mr. William A. Brobst, Chief, Transportation Branch, Division of Waste Management and Transportation, Atomic Energy Commission in Docket 27090 are dismissed;

G. Action upon the complaints of the Department of Transportation in Dockets 27488 and 27520 is deferred with respect to the request for enforcement action, and, except to the extent granted herein, the requests for prospective rejection of both tariffs and embargoes are dismissed;

2. The effective date of the Board's order as set forth in subparagraphs A through G herein of ordering paragraph 1 is hereby stayed, pending determination by the United States Court of Appeals for the Second Circuit of the issues now before the Court in *Air Line Pilots Association, Int'l. v. Civil Aeronautics Board*, No. 75–4049, and further orders of the Board consistent therewith; and

3. Copies of this order shall be served upon the Department of Transportation, the American Medical Association, the American College of Radiology, Mr. William A. Brobst, Chief, Transportation Branch, Division of Waste Management and Transportation, Atomic Energy Commission, the Air Line Pilots Association, International, and upon all the carriers party hereto.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-10377 Filed 4-18-75;8:45 am]

[1] The Board recognizes that this order considers not only the embargoes involved in Order 75–2–127, but also additional embargoes (with some differences in scope), as well as tariffs relating to restricted materials. We believe, however, that the issues herein and those before the Court in Case No. 75–4049 (consolidated with Case No. 75–4055) are sufficiently similar to warrant a stay of the effectiveness of the Board's order.

[Docket No. 26494; Order 75–4–79]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of April, 1975.

Agreements adopted by the International Air Transport Association relating to passenger fares between the Pacific and Europe/Middle East/Africa direct and via the Western Hemisphere; Docket 26494, Agreement C.A.B. 25004, Agreement C.A.B. 25006, R–1 through R–28.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 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 agreements, adopted at a JT23/123 Traffic Conference Meeting held in Singapore in February 1975, bear the above C.A.B. agreement numbers and are intended for effectiveness April 1, 1975.

Agreement C.A.B. 25004, which affects air transportation only insofar as American Samoa and Guam are concerned, would increase all fares, except normal first- and economy-class fares, between Pacific points (except Japan/Korea) and TC2 (Europe/Middle East/Africa) by eight percent. Agreement C.A.B. 25006, which has only indirect application in air transportation, establishes a new fare structure to apply between Japan/Korea and TC2 (both east bound and westbound) through March 31, 1976. Briefly, the second agreement increases all Japan/Korea-TC2 normal first- and economy-class fares by 7 percent, increases Europe-Japan CBIT fares by 8 percent, and establishes new fares for affinity groups and ships' crews as well as numerous new GIT fares tailored for specific selected markets between Japan/Korea and Europe, the Middle East and/or Africa. Finally, this agreement would impose a five percent currency surcharge on travel originating in France to Japan/Korea.

The Board will approve the agreements. As noted above, the only transportation in which the U.S. has a direct interest is that to and from American Samoa and Guam. While fares for these services are generally being increased, those for normal first- and economy-class service are to be maintained at present levels. The agreement is, therefore, consistent with our disposition of the North/Central Pacific agreement wherein we disapproved the proposed increase in normal economy fares, but approved increases in the remaining fares (Order 75–3–100, March 26, 1975).

The Board, acting pursuant to sections 102, 204(a) and 412 of the Act makes the following findings:

1. It is not found that the following resolution, which is incorporated in Agreement C.A.B. 25004, is adverse to the public interest or in violation of the Act:

Agreement CAB	IATA	Title	Application
25004	003t	General Increases in Passenger Fares	2/3; 1/2/3 (except Japan/Korea).

2. It is not found that the following resolutions, incorporated in Agreement C.A.B. 25006 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:

Agreement CAB	IATA No.	Title	Application
24006:			
R-1	001b	JT23 Special Effectiveness Resolution (Tie-In)	2/3.
R-2	001b	JT123 Special Effectiveness Resolution (Tie-In)	1/2/3.
R-3	001jj	Special Effectiveness Resolution	2/3; 1/2/3.
R-4	002	Standard Revalidation Resolution	2/3; 1/2/3.
R-5	003m	Fares Adjustment Resolution-Opening of Narita Airport (New)	2/3; 1/2/3.
R-6	014a	Construction Rules for Passenger Fares (Revalidating and Amending).	2/3; 1/2/3.
R-7	022f	JT23/JT123 Special Rules for Sales of Passenger Air Transportation (Amending).	2/3; 1/2/3.
R-8	055	JT23 First-Class Fares (Revalidating and Amending)	2/3.
R-9	058	First-Class Polar Fares (Revalidating and Amending)	1/2/3.
R-10	059	First-Class Fares TC2-TC3 (Asia) via TC1 (Except Polar) (Revalidating and Amending).	1/2/3.
R-11	060	Economy-Class Conditions of Service (Revalidating and Amending)	2/3; 1/2/3.
R-12	065	JT23 Economy-Class Fares (Revalidating and Amending)	2/3.
R-13	068	Economy-Class Polar Fares (Revalidating and Amending)	1/2/3.
R-14	069	Economy-Class Fares TC2-TC3 (Asia) via TC1 (Except Polar) (Revalidating and Amending).	1/2/3.
R-15	076dd	TC2-Japan/Korea Affinity Group Fares (New)	2/3; 1/2/3.
R-16	076gg	TC2-Japan/Korea via TC1 Affinity Group Fares (New)	1/2/3.
R-17	077j	Individual Fares for Ships' Crews TC2-Japan/Korea (New)	2/3; 1/2/3.
R-18	077L	Group Fares for Ships' Crews TC2-Japan/Korea (New)	2/3; 1/2/3.
R-19	079b	Europe-Japan Contract Bulk Inclusive Tour Rules (Revalidating and Amending).	2/3; 1/2/3.
R-20	081i I	45-Day Group Inclusive Tour Fares—TC2 to Japan/Korea (New)	2/3; 1/2/3.
R-21	081i II	45-Day Group Inclusive Tour Fares—Middle East/Africa to Japan/Korea (New).	2/3; 1/2/3.
R-22	081nn	60-Day Group Inclusive Tour Fares Japan/Korea to TC2 (New)	2/3; 1/2/3.
R-23	084gg I	30-Day Group Inclusive Tour Fares between TC2 and Japan/Korea (New).	2/3; 1/2/3.
R-24	084gg II	30-Day Group Inclusive Tour Fares between TC2 and Japan/Korea (New).	2/3; 1/2/3.
R-25	084h	30-Day Group Inclusive Tour Fares from Paris to Japan (New)	2/3; 1/2/3.
R-26	084r	Group Inclusive Tours from Scandinavia (Revalidating and Amending).	2/3; 1/2/3.
R-27	001d	Special Emergency Escape for JT23 and JT123 Agreements (Revalidating and Amending).	2/3; 1/2/3.
R-28	001ss	Special Emergency Escape for JT23/JT123 (TC2-Japan/Korea) Agreement (Revalidating and Amending).	2/3; 1/2/3.

Accordingly, it is ordered that: 1. Agreements C.A.B. 25004 and 25006 set forth in finding paragraphs 1 and 2 above be and hereby are approved subject, where applicable, to conditions previously imposed by the Board; and

2. Tariffs implementing Agreement C.A.B. 25004 shall be marked to expire March 31, 1976.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-10379 Filed 4-18-75;8:45 am]

[Docket 25659; Order 75-4-78]

LOCAL SERVICE CLASS SUBSIDY RATE

Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of April, 1975.

Section IV of the Rate Formula in Order 74-1-123, January 24, 1974, requires that a review of the local service carriers' subsidy-ineligible services be performed predicated on a six-month moving annual basis ending in March and September of each year.[1] The next review will encompass the 12 months ended March 31, 1975. An information report, "Distribution of Reported Services and Financial Data to Selected Categories," is required to be filed with the Board no later than 45 days following the close of the review period. Appendix P,[1a] attached to Order 74-1-123, sets forth the substantive requirements of the report.

The Board's experience with previous reviews reveals that several changes are needed in the tables in Appendix P.

In the attached revised Table V of Appendix P, incidental revenues (net), formerly Account 4600, has been changed to transport-related revenues (Account 4898) and transport-related expenses (Account 7100), both of which will now appear separately. In addition, other transport revenues (Account 3919) and transport-related revenues (Account 4898) will be recorded separately. These changes in the format of this table reflect recent changes in the Form 41 reporting requirements.

In the attached amended pages 6, 7 and 8 of Table VI of Appendix P, the formulas for beyond-traffic yields have been changed to reflect different values for average hop, average haul, and the regression equations. These changes will enable beyond yields to be formulated on the same fare basis as local yields. Consistent with the previous amendment to Appendix P,[2] the average hope and the average haul are based on data from the year ended December 31, 1974, the fare/distance regression equations use the fares in effect 45 days prior to the close of the review period, and the dilution factors are based on data from the quarter ended December 31, 1974. In this way, the Board is taking advantage of current information concerning recent fare and traffic changes.

Accordingly, it is ordered that: 1. The attached revised Table V of Appendix P be and it is hereby substituted for Table V of Appendix P attached to Order 74-1-123;

2. The attached amended pages 6, 7 and 8 of Table VI of Appendix P be and they are hereby substituted for pages 6, 7 and 8, respectively, of Table VI of Appendix P attached to Order 74-1-123, as amended by Order 74-9-65;

3. This order shall become effective on the seventh calendar day after service hereof, unless prior to that date exceptions and supporting reasons shall have been filed with the Board by parties to this proceeding. If exceptions and supporting reasons are filed by any of the parties within the time prescribed above, the effective date of this order shall be stayed pending disposition of the exceptions; and

4. This order shall be served upon all parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-10378 Filed 4-18-75;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

PRODUCT SAFETY ADVISORY COUNCIL

Notice of Meeting

Notice is given that a meeting of the Product Safety Advisory Council will be held on Monday, May 19, 1975 (9 a.m. to 5 p.m.) and Tuesday, May 20, 1975 (9 a.m. to 12 noon) in the 6th Floor Conference Room, Consumer Product Safety Commission, 1750 K Street NW., Washington, D.C.

The Advisory Council has been established pursuant to section 28 of the Con-

[1] The review of subsidy-eligible operations, as set forth in Order 74-12-120 and finalized in Order 75-3-22, will take place concurrently with this review of subsidy-ineligible operations.

[1a] Appendix filed as part of the original document.

[2] Order 74-9-65, September 19, 1974.

sumer Product Safety Act (PL 92-573, 86 Stat. 1230; 15 U.S.C. 2077). The Act provides that the Commission may consult the Council before prescribing a consumer product safety rule or taking other action under the Act.

Since this will be the final meeting in FY 75 for this Committee and simultaneously, the last meeting for nine (9) members whose terms will expire on June 30, the agenda will probably focus on a summary review and evaluation of the Council's work to date and some recommendations for future activities.

The meeting is open to the public, however, space is limited. Further information concerning this meeting and final agenda topics may be obtained from the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, phone, (202) 634-7700.

Dated: April 16, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.75-10387 Filed 4-18-75;8:45 am]

CHARLES CASTRO ET AL.

Notice of Commencement of Enforcement Proceeding and Notice of Prehearing Telephone Conference

Charles Castro, an individual trading as Bay Area Mattress Company and Keva Mattress Company.

Notice is hereby given that a prehearing telephone conference in the above-entitled matter will be held on May 2, 1975 pursuant to an order (reprinted below) served by Administrative Law Judge Paul N. Pfeiffer. This notice is given pursuant to the Consumer Product Safety Commission's Proposed and Interim Rules of Practice for Adjudicative Proceedings, published on July 23, 1974 (39 FR 26848) and which governs adjudicative proceedings in this matter.

A Notice of Enforcement has been prepared by the Commission's staff, issued by the Commission and served on Charles Castro, an individual trading as Bay Area Mattress Company and Keva Mattress Company of Oakland, California, hereinafter respondent, as required by the above-referenced Rules. In this Notice of Enforcement (reprinted below), the staff alleges that some 600 mattresses manufactured by respondent between June 22 and December 22, 1973 were manufactured for sale and sold, in commerce without having first been tested for flammability as set forth in the Mattress Standard (FF 4-72), or affixing the warning label allowable in lieu of testing during the period from June 22-December 22, 1973. This action may be in violation of the Flammable Fabrics Act and the rules and regulations promulgated thereunder and as such, may be an unfair method of competition and an unfair and deceptive act and practice in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

The docket in this matter is available in the Office of the Secretary of the Commission.

Any person, other than the respondent, who desires to become a party to the proceedings, to participate in the prehearing telephone conference, or to testify at the hearing, may request to do so by writing to the Honorable Paul N. Pfeiffer, Administrative Law Judge, Department of Commerce, Maritime Administration, Room 6708, Washington, D.C. 20230 or by telephoning (202) 967-5023 by close of business April 28, 1975.

Dated: April 16, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

Reprinted below are the Notice of Prehearing Telephone Conference and the Notice of Enforcement.

CONSUMER PRODUCT SAFETY COMMISSION

Washington, D.C. 20207

In the matter of: Bay Area Mattress Company, Flammable Fabrics Act Enforcement Proceeding, Docket No. CPSC 75-2.

NOTICE OF PREHEARING TELEPHONE CONFERENCE

Issue has been joined by the filing of an answer to the notice of enforcement on March 24, 1975 and Respondent's attorney has requested that a prehearing conference and subsequently the hearing be held in San Francisco with which Staff Counsel is in agreement.

Upon consideration of the request, it is believed that the expense and time of a round trip transcontinental journey for the purpose of holding a prehearing conference of probably a few hours duration cannot be justified. It has been suggested to Counsel that the matter be transacted through a transcontinental conference telephone call plus an electronic recording of the discussion with copies of the transcript being made available to both parties. Counsel are in agreement and the tentative date of May 2, 1975 has been established for this purpose.

In view of the foregoing, this office will initiate a conference telephone call from area code 202-967-5023 to Myron A. Cataldo, Esq., attorney for Respondent, at 415-483-5678 and Staff Counsel Melvin I. Kramer, Esq., at 202-496-7774 on or about 1 p.m. e.d.s.t. (10 a.m. p.d.s.t.) on Friday, May 2, 1975. A recording by Sony Secutive BM-30 Dictating Machine will be made from 202-967-5023 and a transcript will be prepared by Mrs. Dorothy V. Loftus of this office. The original will be filed in the public docket and copies will be furnished both sides without charge except for the usual reimbursement to Maritime Administration of salaries and overhead by Consumer Product Safety Commission.

PAUL N. PFEIFFER,
Administrative Law Judge.

UNITED STATES OF AMERICA CONSUMER PRODUCT SAFETY COMMISSION

In the Matter of CHARLES CASTRO, an individual trading as BAY AREA MATTRESS COMPANY and KEVA MATTRESS COMPANY, CPSC Docket No. 75-2.

NOTICE OF ENFORCEMENT

The staff of the Consumer Product Safety Commission (Commission), believes that Charles Castro (respondent), an individual trading as Bay Area Mattress Company and Keva Mattress Company, or under any other name, has violated provisions of the Federal Trade Commission Act (15 U.S.C. 41 *et seq.*), the Flammable Fabrics Act, (15 U.S.C. 1191 *et seq.*), the rules and regulations promulgated under the Flammable Fabrics Act, (16 CFR, Part 300) and the Standard for the Flammability of Mattresses (FF 4-72), (38 FR 15095, June 8, 1973). Commission jurisdiction over this matter is based on the transfer of functions under the foregoing Acts to the Commission by section 30 of the Consumer Product Safety Act (15 U.S.C. 2051, 2079).

The Commission has reason to believe, on the basis of evidence presented by the staff, that violations of the Acts may have occurred. It appears to the Commission that it would be in the interest of the public to issue this Notice of Enforcement to commence adjudicatory proceedings. Therefore, pursuant to the provisions of the Federal Trade Commission Act, the Flammable Fabrics Act, the Consumer Product Safety Act, and the Rules of Practice promulgated thereunder (16 CFR 1025, 39 FR 26848, July 23, 1974), the Commission has authorized the staff to issue this Notice of Enforcement.

The staff of the Commission states its charges as follows:

(1) Respondent Charles Castro is an individual trading as Bay Area Mattress Company and Keva Mattress Company under the laws of the State of California, with his office and principal place of business located at 9915 MacArthur Boulevard, Oakland, California 94605. He formulates, directs and controls the acts, practices and policies of his company.

(2) Respondent is now and has been engaged in one or more of the following activities: the manufacture for sale, sale or offering for sale in commerce, and the introduction, delivery for introduction, transportation and causing to be transported in commerce, and the sale or delivery after sale or shipment in commerce of products, as the terms "commerce" and "product" are defined in the Flammable Fabrics Act. These products are subject to the requirements of the Flammable Fabrics Act, the Standard for the Flammability of Mattresses (FF 4-72) (Mattresses Standard), and the Rules and Regulations issued under the Standard and the Act.

Among such products mentioned above were some 600 mattresses manufactured by respondent between June 22 and December 22, 1973 which were subject to the Mattress Standard but which were not manufactured and sold in conformance with all of the requirements of the Mattress Standard in that respondent, after the effective date of the Standard, June 22, 1973, failed to (a) carry out required flammability tests on the mattresses, (b) maintain required records, or (c) affix to the mattresses the warning labels allowable in lieu of testing during the period from June 22-December 22, 1973.

(3) Attached hereto are copies of the principal items of written evidence, marked Commission Exhibits 1 & 2, which the staff considers to constitute a prima facie case. The aforementioned staff exhibits do not preclude Enforcement Counsel from offering further evidence bearing on the subject matter.

(4) The aforesaid acts and practices of respondent were and are in violation of the Flammable Fabrics Act and the rules and regulations promulgated thereunder and as such constitute unfair methods of competition and unfair and deceptive acts and practices in commerce within the intent and meaning of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

Therefore, the staff of the Consumer Product Safety Commission, with approval of the

Commission, hereby issues this Notice of Enforcement on the 11th day of March, 1975.

SADYE E. DUNN,
Secretary,
Consumer Product Safety Commission.

[FR Doc.75-10388 Filed 4-18-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 360-6]

MASS TRANSIT PRIORITY INCENTIVES IN THE STATE OF NEW JERSEY

Action on Employer's Provision

On June 4, 1974 (39 FR 19779) a revised § 52.1590 was published for the New Jersey transportation control plan approved on November 13, 1973 (38 FR 31388). The revised regulation requires each employer who maintains 400 or more employee parking spaces to submit an adequate transit incentive program designed to encourage the use of mass transit and carpooling by his employees. Submittal of the plans was required by July 1, 1974.

Of the plans received, the Administrator proposed to take approval action on 93. On January 22, 1975 (40 CFR 3465) it was proposed that these plans be approved, and an opportunity for public comment was offered. These plan actions are subject to the condition that employers utilize that mix of incentive and disincentive measures most likely to obtain maximum use of carpooling and mass transit. No comment was received from the public regarding any of the proposed approvals.

The purpose of this notice is to approve the 93 plans proposed for approval in the January 22, 1975 FEDERAL REGISTER. These plans have been shown to maximize carpooling and transit utilization. The Administrator recognizes the good faith efforts on the part of these 93 employers. As stated in the regulation, semiannual status reports are required to be submitted to EPA by each of these employers, documenting participation in the programs, and resultant decreases in company generated vehicle-miles-traveled.

For a listing of the 91 plans approved, reference is directed to the notice in the FEDERAL REGISTER of January 22, 1975.

Dated: April 14, 1975.

ROGER STRELOW,
Assistant Administrator, Air and Waste Management, Environmental Protection Agency.

[FR Doc.75-10269 Filed 4-18-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. G-8836, etc.]

CERTIFICATES OF CONVENIENCE AND NECESSITY

Applications, Abandonment of Service and Petitions To Amend [1]

APRIL 14, 1975.

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 applications should on or before May 8, 1975, 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
G-8836..... D 3-27-75	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Cities Service Gas Co., Hardtner and Early Fields, Barber County, Tex.	(1)	.....
G-11861..... D 3-28-75	Mobil Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046.	Cities Service Gas Co., Hardtner Field, Barber County, Kans.	Depleted	.....
CI61-1397..... C 3-28-75	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	El Paso Natural Gas Co., Huerfano Gallup Field, San Juan County, N. Mex.	[2] 60.814	14.73
CI63-1054..... E 3-10-75	S. Newton Stone et al. (successor to estate of Frank Martin Porter, deceased), P.O. Box 25189, Oklahoma City, Okla. 73125.	Kansas-Nebraska Natural Gas Co., Inc., Bradshaw Field, Hamilton County, Kans.	[3] 35.0	14.65
CI65-407..... C 3-31-75	Texaco, Inc., P.O. Box 2100, Denver, Colo. 80201.	El Paso Natural Gas Co., Tocito Dome Field, San Juan County, N. Mex.	[4] 60.188	15.025
CI68-1346..... E 3-24-75	Tenneco Oil Co. (successor to Tennessee Gas Supply Co.), P.O. Box 2511, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Ship Shoal Block 176 Field, offshore Louisiana.	[5] 27.0	15.025
CI73-175..... C 3-28-75	Amoco Production Co.....	El Paso Natural Gas Co., Basin Dakota Field, Rio Arriba County, N. Mex.	[2] 60.814	14.73
CI75-535..... A 3-6-75 [6]	Southwestern Refining Co., Inc. (operator) et al., P.O. Box 9217, Corpus Christi, Tex. 78408.	Tennessee Gas Pipeline Co., a division of Tenneco, Inc., Southwest Bailey Field, Jim Wells County, Tex.	[7] 54.826	14.65
CI75-578..... A 3-17-75	American National Gas Production Co., 1 Woodward Ave., Detroit, Mich. 48226.	Michigan Wisconsin Pipe Line Co., acreage in Beckham County, Okla.	[8] 75.0	14.65
CI75-579..... (CI64-187) B 3-28-75	J. R. Perkins and F. L. Parham, d.b.a. Perkins Production Co., P.O. Drawer 878, Duncan, Okla. 73533.	Arkansas-Louisiana Gas Co., Northwest Okeene Field, Blaine County, Okla.	Low pressure	.....
CI75-582..... (CI69-803) B 3-24-75	Troporo Oil & Gas Co., 511 West Ohio, Midland, Tex. 79701.	Transwestern Pipeline Co., South Carlsbad Field, Eddy County, N. Mex.	Uneconomical	.....

[1] Unit is no longer producing natural gas in commercial quantities and purchaser wishes to reclaim its meters and other facilities.
[2] Includes 5.529 cents per Mcf upward Btu adjustment and 4.285 cents per Mcf estimated tax reimbursement.
[3] Subject to downward Btu adjustment.
[4] Includes 12.566 cents per Mcf upward Btu adjustment and 1.020 cents per Mcf gathering allowance.
[5] Subject to Btu adjustment.
[6] Being renoticed, because applicant requests a higher price by amendment filed Apr. 3, 1975.
[7] Subject to upward and downward Btu adjustment.
[8] Applicant is willing to accept a certificate in accordance with Opinion No. 699.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.75-10261 Filed 4-18-75;8:45 am]

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket No. G-4420, etc.]

HASSIE HUNT, INC.

Petition To Amend

APRIL 11, 1975.

Take notice that on February 12, 1975, Hassie Hunt, Incorporated (Petitioner), 1401 Elm Street, Dallas, Texas 75202, filed in Docket No. G-4420, *et al.*, a petition to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said dockets by authorizing Petitioner to continue sales for resale and deliveries of natural gas in interstate commerce in lieu of Hassie Hunt Trust, all as more fully set forth in the appendix hereto and in the petition to amend which is 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 petition to amend should on or before April 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Docket No.	FPC gas rate schedule	Purchaser
G-4420	3	Transcontinental Gas Pipe Line Corp.
G-4421	4	Texas Eastern Transmission Corp.
G-4421	6	Texas Gas Transmission Corp.
G-4421	7	Arkansas Louisiana Gas Co.
G-4421	13	United Gas Pipe Line Co.
G-10010	18	Arkansas-Louisiana Gas Co.
G-14109	19	Transcontinental Gas Pipe Line Corp.
G-14303	20	Texas Gas Transmission Corp.
G-18967	23	Arkansas-Louisiana Gas Co.
G-19249	24	Tennessee Gas Transmission Corp.
G-20172	25	Texas Gas Transmission Corp.
G-18897	22	Transcontinental Gas Pipe Line Corp.
G-19115	26	Natural Gas Pipe Line Co. of America.
C161-645	29	Texas Gas Transmission Corp.
C162-591	30	El Paso Natural Gas Co.
C163-606	31	Texas Gas Transmission Corp.
C164-581	32	Do.
C164-577	33	Do.
C165-862	34	Do.
C165-596	35	Michigan-Wisconsin Pipe Line Co.
C167-138	36	Transcontinental Gas Pipe Line Corp.
C169-722	37	Texas Eastern Transmission Corp.
C169-783	38	Texas Gas Transmission Corp.
C170-080	39	Texas Eastern Transmission Corp.
C172-424	40	El Paso Natural Gas Co.
C172-542	41	Michigan-Wisconsin Pipe Line Co.
C174-829	43	Do.
C175-277	44	Arkansas-Louisiana Gas Co.

[FR Doc.75-10262 Filed 4-18-75;8:45 am]

[Docket No. RP74-4]

CITIES SERVICE GAS CO.

Notice Fixing Procedural Dates and Postponing Hearing

APRIL 15, 1975.

On April 10, 1975, Cities Service Gas Company (Cities) filed a motion to establish procedural dates and postpone the hearing fixed by order issued January 23, 1975, as most recently modified by notice issued March 3, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Cities Supplemental Testimony, May 16, 1975.
Service of Staff's Testimony, May 30, 1975.
Service of Intervenor's Testimony, June 13, 1975.
Hearing, June 24, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10349 Filed 4-18-75;8:45 am]

[Docket No. RP75-27]

CITIES SERVICE GAS CO.

Proposed Revisions in Rate Increase

APRIL 14, 1975.

Take notice that on March 24, 1975, Cities Service Gas Company (Cities Service), tendered for filing revised tariff sheets in Docket No. RP75-27. Such sheets are designated Substitute Eleventh Revised Sheet PGA-1 and Substitute Second Revised Sheet No. 37D and are proposed to be effective April 23, 1975.

Cities Service states that the purpose of these tariff sheets is to incorporate the current purchased gas cost in the rates currently under suspension in Docket No. RP75-27.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP75-27 and RP72-142.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 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 April 25, 1975. 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.75-10350 Filed 4-18-75;8:45 am]

[Docket No. CP75-5]

CONSOLIDATED GAS SUPPLY CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Further Notice of Application

APRIL 15, 1975.

Take notice that on September 30, 1974, and on February 20, 1975, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, (Applicants) filed in Docket No. CP75-5 further information relative to their application filed on July 3, 1974,[1] in the subject docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas measurement and regulation facilities and the sale and delivery of gas from Texas Eastern to Consolidated, all as more fully set forth in the application and related filings which are on file with the Commission and open to public inspection.

By the application of July 3, 1974, Texas Eastern proposes to construct and operate measuring and regulating facilities in Cambria County, Pennsylvania, as an additional delivery point to Consolidated in Texas Eastern Zone D. That application indicates that the proposed facilities will be connected with the facilities of The Peoples Natural Gas Company (Peoples), an existing requirements customer and affiliate of Consolidated, and that the proposed sale and delivery of gas through the proposed delivery point will assist Peoples in injecting a full inventory into its Rager Mountain storage pool during the summer months and will obviate the necessity of Peoples' constructing significant compression and pipeline facilities.

Applicants have filed additional and clarifying information with regard to said application. Applicants state that although the application indicates that Texas Eastern does not propose to increase its presently authorized delivery quantity of 20,000 Mcf per day (15.025 psia) to Consolidated in Zone D under its Rate Schedule DCQ-D, Texas Eastern does seek authorization to sell and deliver at the proposed delivery point up to 75,000 Mcf of gas per day to Consolidated in addition to the volumes presently authorized for delivery in Zone D. Applicants anticipate that the maximum annual volumes to be delivered through the proposed facilities will be 11,000,000 Mcf of gas. The additional volumes of gas would be diverted from volumes presently authorized to be sold and delivered to Consolidated in Zone C under Texas Eastern's Rate Schedule ACQ-C.

Texas Eastern proposes to add said delivery point to Consolidated's service

[1] Notice of the application was published in the FEDERAL REGISTER on July 31, 1974 (39 FR 27731).

agreement under Rate Schedule ACQ–C (Zone C) and to Consolidated's service agreement under Rate Schedule DCQ–D (Zone D). It is stated that Texas Eastern does not propose to increase the total volume of gas available to Consolidated under either rate schedule.

Applicants state that the proposal will not result in increased volumes of gas being delivered to Consolidated and will neither increase the volumes of gas which would otherwise be deliverable to Peoples nor decrease deliveries to any other customer. Applicants further state that it is not contemplated that the gas delivered by Texas Eastern to Consolidated in Zone D will be returned in Zone C under currently proposed operating conditions and that the proposal will have no effect on curtailments or revenues of either company.

Any person desiring to be heard or to make any protest with reference to the instant submittals should on or before April 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed notices of intervention, petitions to intervene or protests to the granting of the application in this proceeding need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–10351 Filed 4–18–75;8:45 am]

[Docket No. RP72–134, PGA75–9]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

APRIL 14, 1975.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on April 2, 1975, tendered for filing Thirteenth Revised Sheet No. 3A and Thirteenth Revised PGA–1 to its FPC Gas Tariff, Original Volume No. 1, to become effective May 1, 1975. The proposed changes would increase revenues from jurisdictional sales and service by approximately $168,387 annually based on sales for the twelve-month period ending February 28, 1975.

Pursuant to the Purchased Gas Adjustment Clause contained in its tariff, Eastern Shore proposes to decrease the demand charges and increase the commodity or delivery charges in its rate schedules CD–1, CD–E, G–1, PS–1, E–1, I, and GSS–1 and decrease its LGA rates to reflect the equivalent changes in the similar rates of its sole supplier, Transcontinental Gas Pipe Line Corporation, as contained in the latter's general rate increase filing in Docket No. RP75–75 dated March 14, 1975. Eastern Shore requests waiver of the notice requirements of § 154.22 of the Regulations under the Natural Gas Act and Section 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary, to permit the proposed tariff sheets to become effective as of May 1, 1975, coincident with the proposed effective date of Transco's rate changes, or on such later date on which Transco's rate changes may become effective after suspension, if any.

Copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

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, N.E., 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 April 28, 1975. 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 available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–10352 Filed 4–18–75;8:45 am]

[Docket No. RP72–6]

EL PASO NATURAL GAS CO.

Tariff Filing

APRIL 15, 1975.

Take notice that on March 28, 1975, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed pursuant to ordering paragraph (B) of the order accompanying the Commission's Opinion No. 697–A,[1] certain tariff sheets to its FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A, all as more fully set forth in the filing which is open to public inspection.

El Paso states that on March 7, 1975, it filed a motion for extension of time for filing tariff sheets in compliance with Opinion No. 697–A until March 28, 1975, and for filing the base volume and end-use profile information required by ordering paragraph (C) of said opinion until April 11, 1975. By order issued March 18, 1975, at Docket No. RP72–6, the Commission granted El Paso's motion for extension of time for tendering its compliance filings to the Commission.[2]

El Paso further states that the tendered tariff sheets serve to modify El Paso's currently effective interim curtailment plan, as modified and clarified by Opinion Nos. 697 and 697–A and accompanying orders. The proposed effective date for the tendered tariff sheets is the date designated by further order of the Commission upon acceptance and approval thereof.

El Paso states that copies of the filing have been served upon all parties of record in Docket No. RP72–6 and, otherwise, upon all of El Paso's interstate system customers and all interested state regulatory commissions.

El Paso has filed the following sheets:

ORIGINAL VOLUME NO. 1

Sixth Revised Sheet No. 39.
Third Revised Sheet No. 61.
Fourth Revised Sheet No. 62.
Sixth Revised Sheet No. 63.
Second Revised Sheet No. 63–A.
First Revised Sheet No. 63–B.
Second Revised Sheet No. 63–C.
First Revised Sheet No. 63–D.
Second Revised Sheet No. 63–E.
Original Sheet No. 63–F.
Original Sheet No. 63–G.
Original Sheet No. 63–H.
Original Sheet No. 63–I.
Original Sheet No. 63–J.
Third Revised Sheet No. 67–D.
Second Revised Sheet No. 67–E.
Original Sheet No. 67–F.

THIRD REVISED VOLUME NO. 2

First Revised Sheet No. 1–G.
First Revised Sheet No. 1–H.
Second Revised Sheet No. 1–I.
Second Revised Sheet No. 1–J.
Second Revised Sheet No. 1–K.
First Revised Sheet No. 1–L.
Second Revised Sheet No. 1–M.
First Revised Sheet No. 1–N.
Second Revised Sheet No. 1–O.
First Revised Sheet No. 1–P.
Original Sheet No. 1–Q.
Original Sheet No. 1–R.
Original Sheet No. 1–S.
Original Sheet No. 1–T.
Original Sheet No. 1–U.
Original Sheet No. 1–V.

ORIGINAL VOLUME NO. 2A

First Revised Sheet No. 1–MM.
First Revised Sheet No. 2–MM.
Second Revised Sheet No. 3–MM.
Second Revised Sheet No. 4–MM.
Second Revised Sheet No. 5–MM.
First Revised Sheet No. 6–MM.
Second Revised Sheet No. 7–MM.
First Revised Sheet No. 8–MM.
Second Revised Sheet No. 9–MM.
First Revised Sheet No. 10–MM.
Original Sheet No. 11–MM.
Original Sheet No. 12–MM.
Original Sheet No. 13–MM.

[1] On December 19, 1974, the Commission issued its Opinion No. 697–A and accompanying order in Docket No. RP72–6, which opinion, inter alia, directed El Paso to file revised tariff sheets, consistent with the terms and conditions prescribed in Opinion No. 697, as clarified and modified by Opinion No. 697–A.

[2] Certain additional tariff sheets, required to reflect the individual customers peak day entitlement, summer and winter season base volume and priority limitation amounts are not included as a part of the instant tender; however, such tariff sheets will be filed on April 11, 1975, concurrent with the information required by ordering paragraph (C) of Opinion No. 697–A, El Paso states.

Original Sheet No. 14–MM.
Original Sheet No. 15–MM.
Original Sheet No. 16–MM.

El Paso makes the following representations with respect to its filing:

1. The tariff sheets contain provisions designed to implement the seasonal and daily volumetric limitations prescribed by the Commission in Opinion No. 697–A. In the tariff sheets tendered for inclusion as a part of Original Volume No. 1 of El Paso's FPC Gas Tariff, this subject is addressed by Section 11.9, *Volumetric Limitations*, and by the *Index of Base Volumes* and the *Index of Priority Limitations* which will begin on proposed Second Revised Sheet No. 100 and proposed Original Sheet No. 130, respectively. These tariff provisions, when completed by inclusion therein on April 11, 1975, of specific numbers for each customer, will reflect the seasonal volumetric limitations for each customer, *in each priority of service*, which have been established by Opinion No. 697–A as further noted by the Commission in its Opinion No. 712–A which issued on January 17, 1975, in the *Tennessee Gas Pipeline Company* proceeding in Docket Nos. CP73–115 and CP74–27.

2. In preparing the base volume and end use profile information to be filed on April 11, 1975, and in thus deriving the relevant numbers to be included in El Paso's tariff at the indices referred to in the preceding paragraph, no recognition will be accorded to Priority 1 and Priority 2 loads which have been attached by El Paso's east-of-California distributor customers since the October 31, 1974 cut-off date prescribed by Opinion No. 697–A. El Paso submits that gross inequities will result unless the Commission takes remedial action in recognition of the following facts: (i) El Paso's distributor customers had no notice until after issuance of Opinion No. 697–A on December 19, 1974, that the continued attachment of high priority load after October 31, 1974, was done at their peril; (ii) even if they had had such notice on October 31, 1974, such distributors could not have unilaterally refused to continue to accept and honor applications for such service because of their public utility obligations under their various service area franchises and state regulatory commission regulations; (iii) as a result, continued adherence by the Commission to the October 31, 1974 cut-off date will deny gas to El Paso's customers for part of their presently attached Priority 1 and Priority 2 loads. Such an untoward result can be avoided by the Commission adoption of a prospective cut-off date which will provide these distributor customers and their state commissions a reasonable transition period to coordinate their actions with the volumetric limitations established by Opinion No. 697–A.

3. In Opinion No. 697–A, the Commission was silent regarding the propriety of making adjustments to (i) the actual takes of El Paso's customers during the twelve month period ending October 31, 1972, and (ii) requirements reported daily by El Paso's customers to El Paso during the twelve month period ending October 31, 1974, to give appropriate recognition to certain factors. Accordingly, the base volume and end use profile information which El Paso will file is not based upon any data which have been adjusted to reflect weather or rainfall considerations. El Paso highlights this point and requests Commission guidance in this regard because various of its customers have pointed out to El Paso that those periods chosen by the Commission misrepresents their true requirements because of unseasonably mild weather experienced during that period. Also, it has been pointed out that irrigation gas usage was abnormally low because of greater than normal rainfall during the growing season.

4. Finally, while the matter may be addressed in the hearings regarding irrigation gas usage which have been instituted by the Commission's order of March 21, 1975, in this proceeding, out of an abundance of caution, El Paso requests for clarification of the appropriate treatment of ignition fuel and flame stabilization gas needs in light of the Commission's "technical feasibility" standard.

The tendered tariff sheets apply to El Paso's FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A, respectively. The tariff revisions made in each of the individual tariff volumes are identical in substance; therefore, the following detailed description of the changes proposed will be limited to the Original Volume No. 1 Tariff, but have been similarly applied in the appropriate counterpart provisions of El Paso's Volume Nos. 2 and 2A Tariff, for which tariff sheets are also tendered. This statement identifies and described the deletions, additions and modifications [1] to the tariff provisions contained in the compliance filing made on July 15, 1974, required to be revised as directed by the Commission in its Opinion No. 697–A and order. Those tariff provisions contained in the said July 15, 1974, compliance filing which do not require revision have also been noted.

The Original Volume No. 1 Tariff Sheets

Sixth Revised Sheet No. 39. This tariff sheet, containing Definitions, is the same as that included in El Paso's July 15, 1974, Opinion No. 697 compliance filing, except for Section 1.9, "Maximum Daily Quantity." The definition of "Maximum Daily Quantity" has been revised to delete the phrase "on a firm basis," inasmuch as Opinion No. 697–A, at page 3, provides that the curtailment plan is based upon the end-use concept and, at page 21, paragraph 3, states that no distinction should be made between firm and interruptible services rendered.

Third Revised Sheet No. 61 and Fourth Revised Sheet No. 62. These tariff sheets containing Section 11.1, *Applicable Terms and Conditions*, include the following changes in El Paso's filing of July 15, 1974, pursuant to the Commission's Opinion No. 697–A:

(a) The definition of *Commercial* reflects the elimination of the last sentence as contained in the July 15, 1974, filing, which sentence read: "This classification shall also include service to any party utilizing gas for irrigation pumping, for total energy systems at establishments engaged in commercial operations or for uses associated with the production of oil and gas." This change is required by Opinion No. 697–A, page 18, first paragraph.

(b) The definitions of *Firm* and *Interruptible Service* as contained in the July 15, 1974, filing have been eliminated pursuant to Opinion No. 697–A, page 21, third paragraph.

(c) The definition of *Plant Protection Gas* reflects the elimination of the last sentence as contained in the July 15, 1974, filing, which sentence read: "This term shall include volumes of gas required to protect the human needs associated with the operation of the plant." This change is required by Opinion No. 697–A, page 20, last paragraph.

(d) The definition of *Process Gas* reflects the elimination of the last sentence as contained in the July 15, 1974, filing, which sentence read: "The term process gas includes gas required for ignition fuel and flame stabilization in the generation of electric energy." This change is required by Opinion No. 697–A, page 21, first paragraph.

By eliminating the uses of gas for irrigation pumping, for total energy systems and for the production of oil and gas from definition of *Commercial*, El Paso is said to be complying with the specific language of Opinion No. 697–A. Respecting irrigation gas usage, El Paso's compliance filing with ordering paragraph (C) of Opinion No. 697–A, to be filed on April 11, 1975, will reflect Priority 3 classification for all irrigation gas volumes. However, the April 11, 1975, profiles will be subject to possible modification resulting from the hearing instituted by the Commission's order of March 21, 1975, which will ultimately identify that portion, if any, of irrigation gas usage which falls within the definition of "process gas" and thus be accorded a Priority 2 classification.

The definitions as now contained in sections 11.1(a) through (h) on tendered Sheet Nos. 61 and 62 are identical to those uniform definitions prescribed in Order No. 493–A. The following definition has been substituted for the section 11.1(k) definition of "Direct Industrial Customer" as included in the July 15, 1974, compliance filing:

(i) *Direct Customer.* Any party entitled to purchase and receive gas service for its own use and consumption directly from Seller's system under a contract with Seller ("Direct Industrial Contract").

This revision, said to be essentially of an editing nature, consists of striking the word "Industrial" from the title and from the definition for clarification, inasmuch as such customers also use and consume gas other than that necessary for strictly industrial use. Reference made throughout the provisions of El Paso's tariff to "Direct Industrial Customer" have also been revised to reflect

[1] Additions and changed tariff language are italicized.

"Direct Customer" in accordance with this change in definition.

In addition to the foregoing, the following definitions have been added to section 11.1:

(j) *Summer Season.* Is defined as the period May 1 through October 31.

(k) *Winter Season.* Is defined as the period November 1 through April 30.

The above definitions of Summer Season and Winter Season periods are said to be consistent with the prescribed seasonal periods set forth in Opinion No. 697–A, page 5, last paragraph.

Sixth Revised Sheet No. 63.[4] This tariff sheet replaces the tariff sheet designated as Second Revised Sheet No. 63–A in the July 15, 1974, filing. Section 11.2, *Priorities of Service, Priority 2* has been revised by the elimination of the last sentence, which sentence read: "Gas requirements of any party utilizing gas for irrigation pumping, for total energy systems at establishments engaged in commercial operations or for uses associated with the production of oil and gas shall be included in this priority irrespective of peak day consumption," as required by Opinion No. 697–A, page 18, paragraph 1. In addition, the language identified by *italics* below has been added to the Priority 2 description:

Priority 2. Large commercial requirements (50 Mcf or more on a peak day), industrial requirements for plant protection, feedstock and process needs and pipeline customer storage injection requirements *to the extent set forth in section 11.3(g) below.*

The purpose of the added language is to make reference to the appropriate section of the tariff providing for the determination of the portion of El Paso's customers' current storage injection requirements which are to be permitted as a Priority 2 requirement in accordance with Opinion 697–A at page 13.

The description of *Priority 5* has been modified to change the reference of "(in excess of 3,000 Mcf on a peak day)" to "(3,000 Mcf or more on a peak day)" as indicated below:

Priority 5. Industrial requirements for large volumes (3,000 Mcf or more on a peak day) boiler fuel use where alternate fuel capabilities can meet such requirements.

This change in Priority 5 definition is said to be necessary that such priority applies to industrial requirements of 3,000 Mcf and greater on a peak day and is said to be recognized as a necessary modification in Opinion No. 697–A on Page 23, last paragraph.

The portion of section 11.3 appearing on Sixth Revised Sheet No. 63 has not been changed from its counterpart contained in the July 15, 1974, filing, except for the change in reference to Direct Customer as hereinbefore described.

Second Revised Sheet No. 63–A and First Revised Sheet No. 63–B. These sheets replace First Revised Sheet No. 63–B and Second Revised Sheet No. 63–C, respectively, in the July 15, 1974, filing. Paragraphs 11.3 (a) through (d) are the same as included in El Paso's July 15, 1974, filing except for the change in reference to Direct Customer.

Paragraph (e) (i) and (ii) of section 11.3, providing for the determinants for scheduled deliveries have been rearranged in order and have been restated as follows:

(i) For *Pacific Gas and Electric Company and Southern California Gas Company who, prior to November 1, 1972, received* only part of their gas supply from Seller, each shall provide Seller with the total quantities of gas scheduled for delivery each day in each of the priorities specified in Section 11.2 of this Tariff, the total scheduled supply from all supply sources other than Seller, including storage withdrawals *but excluding any new supply sources or new storage withdrawal capability attached or delivered by such Buyers after October 31, 1974,* which shall be subject to the provisions of section 11.3(f) hereof.

(ii) For *all other* Buyers and Direct Customers who, *prior to November 1, 1972, received* their entire gas supply from Seller, each shall, *as necessary,* provide Seller with the quantities of gas scheduled for delivery each day in each of the priorities specified in Section 11.2 of this Tariff, *excluding any new supply sources or new storage withdrawal capability attached or delivered by such Buyers and Direct Customers after October 31, 1974,* which shall be subject to the provisions of section 11.3(f) hereof.

The revisions to the determinants for scheduled deliveries provisions are said to be designed to encourage customers of El Paso to develop new supplies, new storage or peakshaving capability consistent with the expression of the Commission in Opinion 697–A at pages 14 and 15. The addition of the phrase, as necessary, to paragraph (ii) above is designed to relieve El Paso's small east-of-California customers of the daily scheduling of deliveries. The intent here is said to be a matter of easing El Paso's operating administration of many small customers who provide only Priority 1 and Priority 2 service to the ultimate consumer. The customers in this category comprise approximately 0.25 percent of El Paso's daily deliveries and have peak day entitlements, individually, of no more than 7,000 Mcf.

Although Opinion No. 697–A is said to be explicit in its instruction to determine the quantities of storage injection gas to be afforded a Priority 2 classification during the summer season, it is said to be silent as to the proper priority classification for summer storage injection gas which is other than Priority 2. Also, there are said to be no guidelines as to the proper classification of storage injection gas during the winter season. El Paso states that these matters require clarification and are pointed out at this time so that the Commission may focus on them at the time it accepts the tendered tariff sheets.

The following new paragraph (iii) has been added to section 11.3(e):

(iii) The quantities scheduled by Buyer or Direct Customer for delivery by Seller shall comply with the following limitations:

(1) The total quantity scheduled by Buyer or Direct Customer on any day shall not exceed Buyer's or Direct Customer's peak day entitlement, as specified by Section 11.9 of this Tariff and the related Index of Base Volumes; and

(2) The total cumulative scheduled volume requested by Buyer or Direct Customer for delivery by Seller during any single winter or summer season for each priority, shall not exceed Buyer's or Direct Customer's priority limitation for each priority, as specified by said Section 11.9 of this tariff and related Index of Base Volumes and Index of Priority Limitations.

Further, paragraph (f) has been modified and expanded as set forth below:

(f) Seller shall each day determine the volume of gas deliverable to each Buyer and Direct Customer in accordance with the following procedures:

(i) Seller shall aggregate by priority the total quantities of gas scheduled by Buyers and Direct Customers for each day in accordance with paragraph (e) above;

(ii) Seller shall compare such scheduled quantities with the total amount of gas available for delivery by Seller to such Buyers and Direct Customers for such day in order to ascertain which priorities of service can be served fully, which priorities of service will be curtailed fully and the percentage of service which can be served in the priority of service to be partially served by Seller; and

(iii) Seller shall apply the determination made in (ii) above to the scheduled quantities of each Buyer and Direct Customer for such day to ascertain the total allocation amount of gas each such Buyer and Direct Customer is entitled to take on such day. The resultant total volume so determined for each Buyer and Direct Customer, as appropriately adjusted for the application of Section 11.3A and any authorized emergency relief gas, or scheduled makeup of prior delivered emergency relief gas, shall constitute the entitlement for such day and shall be the basis for the Unauthorized Overrun Gas Payments specified in Section 20 of these General Terms and Conditions.

New paragraphs 11.3(e)(iii) and (f) provide that under the revised curtailment plan, the daily quantities authorized to be taken, as determined by application of the curtailment provisions of Section 11, constitute the entitlement on any given day and the accumulation of scheduled daily quantities of such entitlement shall be used in determining the seasonal volumetric amounts subject to the penalty payment for unauthorized overrun deliveries. El Paso states that the methods and procedures to be followed in determining such volumetric quantities will be fully described in the explanation of the Curtailment Procedures and method of determination of base volume data to be filed on April 11, 1974, as part of El Paso's compliance filing. El Paso notes that the revised paragraph 11.3(f) also includes a modification which deals with the handling of emergency relief gas and storage deliveries in determining the aggregate amount of gas allocated as daily entitlement and used in the determination of Unauthorized Overrun Penalties.

Second Revised Sheet No. 63–C. This tendered sheet contains, as a part of section 11.3, a new paragraph (g) which was not reflected on counterpart Second Revised Sheet No. 63–C in the July 15, 1974,

[4] The definition of Direct Industrial Customer contained on Sixth Revised Sheet No. 63 of the July 15, 1974, filing has been revised and is now contained on tendered Fourth Revised Sheet No. 62 described above.

filing. The new paragraph (g) specifically identifies the quantities of storage injection gas to be accorded Priority 2 classification for El Paso's California customers' summer season storage injection gas to be received from El Paso. Such quantities will be determined in accordance with the formula prescribed by the Commission in Opinion No. 697–A. As of the date of this tender, El Paso's California customers' storage injection quantities of Priority 2 gas are said to be unavailable accordingly, as a part of its base volume and end-use profile information to be filed on April 11, 1975, El Paso will file a Substitute Second Revised Sheet No. 63–C reflecting the appropriate storage injection volumes. This paragraph (g) will also be expanded prospectively to identify storage injection quantities for east-of-California customers as storage projects for their use and benefit are certificated.

First Revised Sheet No. 63–D. This sheet containing sections 11.4, *Operational Limitations*, 11.5, *Alterations and Repairs*, 11.6, *Notice of Curtailment*, and 11.7, *Operating Information and Estimates*, is identical to the counterpart sheet contained in the July 15, 1974, filing inasmuch as Opinion 697–A did not require any change in these provisions.

Second Revised Sheet No. 63–E, Original Sheet No. 63–F, Original Sheet No. 63–G, Original Sheet No. 63–H, Original Sheet No. 63–I, Original Sheet No. 63–J [5]*—Section 11.8 Emergency Relief from Curtailment.* Section 11.8, *Emergency Relief From Curtailment*, as contained Sheet Nos. 63–E and 63–F of the July 15, 1974, filing has been restated and expanded to incorporate the intent of the provisions of Order No. 467–A as prescribed by Opinion No. 697 [6] and the additional guidelines proposed by El Paso in its response to protests of General Motors Corporation and Nevada Power Company filed October 9, 1974, in Docket No. RP72–6 which the Commission directed El Paso to include in the revised tariff filed in compliance with Opinion 697–A.[7] The only revisions to El Paso's response filed on October 9, 1974, is to paragraph 11.8(b)(v) contained on Sheet No. 63–G, wherein the need to determine priority of service for electric operations has been eliminated as a requirement for emergency relief requests and, on Sheet No. 63–H, the last paragraph of Section 11.8 has been modified to clarify the pay back of emergency relief deliveries. As now provided herein, pay back of emergency relief volumes will commence immediately upon termination of the emergency conditions to the extent possible without causing an additional emergency situation.

[5] Original Sheet No. 63–J contains a portion of Section 12, *ARBITRATION*, as a result of repagination of the tariff required in refiling of the tendered sheets in compliance with Opinion 697–A.

[6] *See* Opinion No. 697 at 21 and Order No. 467–A, Amendment to Statement of Policy, issued January 14, 1973, in Docket No. R–469.

[7] *See* Opinion No. 697–A at pages 11 and 12.

Section 11.9 Volumetric Limitations. This section replaces in its entirety the counterpart provision contained on Original Sheet No. 63–G in the July 15, 1974, filing and is to be included in the Priorities and Curtailment provisions in El Paso's tariff to define the maximum quantities of gas which El Paso is authorized to deliver and which the Buyers and Direct Customers are entitled to schedule for delivery during periods of curtailment. El Paso states that there will be attached as part of El Paso's April 11, 1975, filing an explanation of the procedures and methods to be applied in deriving specific volume utilized in the administration of the curtailment plan as prescribed at Opinion 697–A. The provisions of section 11.9, volumetric *Limitations* are discussed below:

Paragraph 11.9(a) identifies the two Indices reflecting the volumetric limitations and sets forth the meaning of the specific volumes shown thereon.

Since, under Opinion No. 697–A, at pages 4 through 8, the Commission has now required specific volumetric limitations for each seasonal period and for each priority for each Buyer and Direct Customer, such data are being set forth for convenience in separate Indices.

Paragraph 11.9(b) defines the terms utilized in the Indices; the Peak Day Entitlement, the Winter Season Base Volume, the Summer Season Base Volume, and the Priority Limitation. These terms are used to define in the tariff the volumetric limitation quantities established consistent with Opinion No. 697–A and to be used in the administration of the curtailment plan.

Paragraph 11.9(c) sets forth in the tariff the requirement of Opinion No. 697–A, page 15, that the initially established volumetric limitations may be changed only by order of the Commission.

Paragraph 11.9(d) sets forth the requirement of Opinion No. 697–A, page 8, that El Paso provide the estimated availability of gas supply to each Buyer and Direct Customer in each priority category no less than 30 days in advance of each seasonal period.

The annual base volumes reflecting actual historical take of El Paso's customers for the twelve-month period ending October 31, 1972, adjusted to also reflect the annualized effect of attached Priority 1 and 2 loads existing as of October 31, 1974, serve as absolute limits on El Paso's authority to deliver gas to its customers, divided into Winter and Summer Season Base Volumes.[8]

Third Revised Sheet No. 67–D, Second Revised Sheet No. 67–E, and Original Sheet No. 67–F. These tendered revised tariff sheets contain provisions which are required to be reworded and resubmitted as a result of the directive given by the Commission in Opinion No. 697–A with respect to Unauthorized Overrun Gas provisions.[9] The revised provisions contained on such sheets are discussed individually below.[10]

[8] *See* Opinion No. 697–A at page 5.

[9] See *Overrun Penalties* section of Opinion No. 697–A commencing on page 8.

[10] Section 19.8 and 19.9 contained on tendered sheet No. 67–D have not been changed from the effective counterpart provisions now contained in El Paso's tariff.

Section 20.1 Daily Unauthorized Overrun Gas. This provision differs from the counterpart provision contained in the July 15, 1974, compliance filing to the extent that it contains all unauthorized overrun gas provisions applicable to daily takes from El Paso consistent with the directives of the Commission contained in Opinion No. 697–A at pages 8 through 11. The provisions set forth in sections 20.1(a), 20.1(b) and 20.1(c) are said to be in substance identical to their counterpart provisions 20.1, 20.2 and 20.3 as contained in the July 15, 1974, compliance filing. The waiver provisions of daily unauthorized overrun payment have been expanded to include the proviso that such waiver is not applicable when Seller is curtailing Priority 2 on a systemwide basis.

Section 20.2 Seasonal Unauthorized Overrun Gas. This provision has been added to El Paso's tariff in accordance with the directives of Opinion No. 697–A, at page 10, and is said to be designed to impose penalty payment on seasonal deliveries taken by any Buyer and Direct Customer which are in excess of the summation of the daily quantities of gas which such customer was entitled to take during such season. Such provisions have been constructed in the manner similar to the overrun provisions applied for daily overruns in Section 20.1, with the exception that no tolerance is permitted in determining the amount of excess takes above the established absolute maximum volumetric limitations set forth in Section 11.9 and related Index. The provision does provide that El Paso's customers will be permitted to apply any daily overrun payments incurred and actually made during any given seasonal period as a credit to such seasonal overrun penalty amounts due and payable, provided that such credit does not exceed the amount of the seasonal unauthorized overrun payment due.

Opinion No. 697–A is said to provide that seasonal entitlements will be determined on the basis of the end-use profile reflecting requirements reported to El Paso by its customers during the year ending October 31, 1974, as adjusted. Only after the season has actually passed and post-season adjustments have been made can seasonal overrun penalties applied against actual takes be properly assessed. El Paso states this is the approach taken in Section 20.2 of El Paso's tariff; the cumulative daily entitlements during each season shall serve as the basis for assessment of seasonal overrun penalties.

Section 20.3 Reservation: Other Remedies. This section specifically provides that Buyer or Direct Customer shall not consider these overrun provisions as permitting them to take unauthorized overrun gas under Section 20 and is consistent with its counterpart provision contained in the July 15, 1974, compliance filing.

Second Revised Sheet No. 100, and Original Sheet No. 130. As provided by section 11.9 of El Paso's tariff provisions tendered herewith in compliance

with Opinion No. 697–A, the index of Base Volumes and the Index of Priority Limitations will reflect those volumetric amounts specifically applicable to each Buyer and Direct Customer to be utilized in the implementation and administration of the revised curtailment plan. Such Indices of volumetric limitations will contain, by customer, the appropriate peak day entitlement, summer season and winter season base volume and priority limitation volume amounts applicable to each such customer.

The Peak Day Entitlement is to be the daily amount specified in El Paso's contracts with its customers, adjusted as necessary to include the peak day requirements of Priority 1 and 2 loads attached by such customers as of October 31, 1974, as prescribed at pages 6 and 7 of Opinion No. 697–A. The summer season and winter season base volumes by customer will be determined on the basis of the actual historical takes by each customer for the twelve month period ending October 31, 1972, adjusted to reflect the annualized effect of attached loads existing as of October 31, 1974. Such volumetric amounts will represent the absolute maximum amounts of gas which shall be available to such customers under the permanent curtailment plan. Such amounts will be utilized in conjunction with each Buyer's and Direct Customer's end-use profile for allocation of El Paso's available supplies by priority of service, to be reflected in the Index of Priority Limitations.

There is included as part of this filing pro forma Sheet Nos. 100 and 130 to El Paso's Original Volume No. 1 tariff, which sheets are submitted for informational purposes to illustrate the format El Paso intends to utilize to reflect the peak day entitlement, summer season and winter season base volumes and priority limitations applicable to each customer. These sheets reflecting this information will be tendered for filing and acceptance on April 11, 1975, concurrent with the base volume and end-use profile information required by ordering paragraph (C) of Opinion No. 697–A, El Paso states.

Any person desiring to be heard or to make any protest with reference to the question whether the instant filing conforms to the requirements of Opinion No. 697–A should on or before May 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed protests, petitions to intervene, or notices of intervention in the instant proceeding need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–10363 Filed 4–18–75;8:45 am]

[Docket No. CP74–143]

EL PASO NATURAL GAS CO.

Petition To Vacate Order

APRIL 14, 1975.

Take notice that on March 26, 1975, El Paso Natural Gas Company (Petitioner), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74–143 a petition requesting the Commission to vacate its order in said docket issued February 19, 1974 (50 FPC —), granting a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act which authorized Petitioner to install certain pipeline facilities in Pinal County, Arizona, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

The petition states that by the February 19, 1974, order Petitioner was authorized to install a measurement and regulating station on its 6-inch O.D. Superior pipeline in Pinal County, replacing an existing tap, to meter and regulate volumes of gas to be delivered to Southwest Gas Corporation (Southwest) for resale in the Queen Valley area, Pinal County. Petitioner states Southwest has notified it that due to a slowdown in the general economy, the forecasted development of the area has not materialized to the extent expected and the anticipated increase in natural gas requirements has not occurred. Petitioner requests, in light of this slowdown and since the period within which Petitioner was authorized to construct the above described facilities has expired, that the Commission grant the instant petition and vacate its February 19, 1974, order.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 29, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–10354 Filed 4–18–75;8:45 am]

[Docket No. RP75–42–3, etc.]

EL PASO NATURAL GAS CO. ET AL.

Petitions for Extraordinary Relief

APRIL 15, 1975.

In the matter of El Paso Natural Gas Company (Pioneer Natural Gas Company), Docket No. RP75–42–3; (The City of Las Cruces, New Mexico, a Municipal Gas Company and Rio Grande Natural Gas Association), Docket No. RP75–42–4; (Southern Union Gas Company), Docket No. RP75–42–6; (Arizona Public Service Company), Docket No. RP75–42–7.

On April 8, 1975, petitions for extraordinary relief pursuant to section 5 of the Natural Gas Act and § 2.78 of the Commission's General Policy and Interpretations (18 CFR 2.78) from curtailment by El Paso Natural Gas Company (El Paso) relating to natural gas used for irrigation purposes were filed by the following petitioners in the following dockets:

Pioneer Natural Gas Company (Pioneer), P.O. Box 511, Amarillo, Texas 79163 in Docket No. RP75–42–3;

The City of Las Cruces, New Mexico, a Municipal Gas Company, and Rio Grande Natural Gas Association (Las Cruces and Rio), c/o Frank N. Chavez, Deputy City Attorney, P.O. Box 760, Las Cruces, New Mexico 88001, in Docket No. RP75–42–4; Southern Union Gas Company (Southern Union) 1500 Fidelity Union Tower, Dallas, Texas 75201, in Docket No. RP75–42–6;

Arizona Public Service Company (Arizona), c/o Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85073.

With respect to the irrigation gas, petitioners, all customers of El Paso, request the following relief:

Pioneer.—An order of the Commission (1) placing irrigation gas in priority 2 of El Paso's curtailment tariff, (2) granting Pioneer permanent extraordinary relief from curtailment for requested irrigation gas volumes of 896,934 Mcf per year except to the extent that curtailment may be required for El Paso to serve human needs customers, (3) granting immediate temporary relief in order to assure adequate gas supplies for Pioneer's customers using gas for irrigation purposes, and (4) such other and further relief as may be warranted in the premises;

Las Cruces and Rio.—Relief from the Commission exempting permanently from El Paso's curtailment the following volumes of natural gas, which are required to fuel agricultural irrigation pumping units as necessary to maintain existing agricultural operations: for Las Cruces, 2,644 Mcf in a peak month and 132.2 Mcf on a peak day; for Rio, 27,904 Mcf in a peak month and 1,395 Mcf on a peak day;

Southern Union.—Permanent extraordinary relief such that all its natural gas requirements for irrigation pumping (expected annual 1975 requirements—approximately 4 million Mcf) be accorded permanent priority 2 status under El Paso's curtailment plan, if more appropriate relief is not granted;

Arizona—A determination by the Commission that El Paso has incorrectly determined that none of the volumes of gas it delivers for irrigation purposes is classifiable as "process gas" includable within priority 2; and for extraordinary relief to enable it to maintain deliveries to irrigation customers (annual requirements for 1974—8,167,800 Mcf).

All petitions are on file with the Commission and open to public inspection.

Pioneer seeks relief on behalf of customers owning approximately 737 irrigation wells, the majority of which are located in Yoakum, Gaines, Deaf Smith and Castro Counties, Texas, and are operated by right of way grantors of El Paso. Pioneer claims that conversion of the engines used to power the irrigation pumps is not feasible due to many practical considerations, which would increase fuel costs approximately 300 percent, or entail modification of engines requiring major reworking by qualified experts at an average cost of 70 percent of replacement cost. Pioneer asserts that to curtail gas used for irrigation pumping would force a farmer's costs up to the point where he will not be able to continue to irrigate crops with any expectation of profit. Pioneer cites the current price per million Btu of natural gas for its customers for irrigation at an average of 80 cents, while the cost of gasoline, the only feasible alternative, according to Pioneer is cited at $2.37 for an equivalent Btu content.

Las Cruces and Rio state that supplies for alternate fuels, such as diesel and gasoline, for irrigation pumping are unavailable, and that no scheduling of alternate fuel sources can be made because the impact of the curtailment by El Paso is not presently known. Las Cruces and Rio cite the cost per million Btu of gas as $5.00 and the cost of diesel and gasoline as $8.15 and $13.16 per million Btu, respectively. Las Cruces and Rio further state as the costs for propane and electricity per million Btu, $10.50 and $5.37, respectively.

Southern Union states that farmers cannot afford to convert to any alternate fuel at all, that the increased capital costs for installing alternate fuel facilities cannot be financed by borrowing and the increased operating costs for using alternate fuel cannot be financed by traditional crop loans. Southern Union submits that it will support its allegations in testimony at the hearing prescribed by the Commission's order of March 21, 1975, issued in Docket No. RP72-6. Southern Union cites the following prices per million Btu of Natural gas:

Texas, 79.68 cents.
New Mexico, 56.60 cents.
Arizona, $1.03.

and the following prices for equivalent volumes of regular gasoline as an alternate fuel:

Texas, $3.5821.
New Mexico, $3.6567.
Arizona, $3.9552.

Arizona states that it is not technically feasible for the 580 irrigation customers on its gas distribution system to convert their natural gas fuel irrigation pumping engines to an alternate fuel. Arizona cites cost of conversion of over 80 percent of replacement cost, conversion time periods of over two years in some instances, inadequate distribution and storage facilities for alternate fuels, speculative availability of alternate fuels, and increased fuel costs of almost 300 percent. Arizona further states that there are no existing alternate fuel capabilities and no alternate fuels. Arizona requests relief for at least 24 months from the date of a final order of the Commission in the instant proceeding, claiming that this period is necessary for the conversion to an alternate fuel for those pumping engines which are determined to be convertible or for a changeover to a different power source.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petitions should on or before May 5, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10353 Filed 4-18-75;8:45 am]

[Docket No. CI75-415]

MESA PETROLEUM CO.

Order Granting Interventions, Setting Matter for Hearing, and Establishing Procedures

APRIL 15, 1975.

On January 10, 1975, Mesa Petroleum Company (Applicant) filed in Docket No. CI75-415 an application pursuant to Section 7(b) of the Natural Gas Act for authorization to abandon the sale of natural gas to Panhandle Eastern Pipeline Company (Panhandle) from the Hugoton Field, Stevens County, Kansas.[1] Applicant also requested authorization pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle from reserves to be developed in Blocks A-330, A-348, and A-349 High Island East Addition, South Extension Offshore Texas (Federal Domain), and in Block 612, West Cameron Area, Offshore Louisiana, part of which is to serve as a substitute for the reserves presently committed to Panhandle at the Hugoton Field. At present the sale of the Hugoton Field gas is being made pursuant to Applicant's small producer certificate in Docket No. CS67-82.[2]

By a January 1, 1976, target date, Applicant proposes to develop and dedicate for sale to Panhandle approximately 200 million Mcf of what Applicant purports to be proven reserves in the aforementioned offshore blocks. Pursuant to the terms of a December 14, 1974, agreement, Applicant proposes to replace the existing 75 million Mcf already committed to Panhandle for 75 million Mcf from the new offshore reserves at an initial rate of 20.512 cents per Mcf plus 2.182 cents per Mcf at 15.025 psia as a gathering allowance. This rate is the weighted average of the two rates in effect for sales of the Hugoton Field gas. Furthermore the gas purchase contract also provides for a 1.0 cents per Mcf increase on July 1, 1977, pursuant to the provision of this Commission's Opinion No. 586. Applicant further proposes to sell the remaining 125 million Mcf of the new offshore reserves to Panhandle at a separate contract rate under an area rate clause at a rate equal to the highest price established by this Commission for the sale of gas produced from the pricing area where the subject offshore gas is sold. This rate is to be determined at the time the deliveries of the 125 million Mcf commence.

Applicant states that once it is determined that 200 million Mcf of proven reserves have been developed, and the gas purchase and sales agreement is executed, Applicant has agreed that in the event the leases committed to the gas purchase and sales agreement are incapable of delivering the contract goal of 200 million Mcf, Applicant will make up such deficiency by committing any uncommitted gas leases which it may have at the time such deficiency is determined. However, Applicant notes that in no event will Applicant be required to acquire new leases or other gas supplies to make up any deficiency. Applicant also states "there is no unlimited warranty by Applicant to delivery 200 Bcf to Panhandle."

In support of its application, Applicant maintains that as a result of the instant proposal, Panhandle will obtain a new net proven reserve addition of 125 million Mcf, and that deliverability to Panhandle will increase to an expected 60,000 Mcf per day from the existing 12,000 Mcf per day under the November 24, 1970, contract. Furthermore, Applicant states that when and if the gas dedicated in the Hugoton Field is released it will make such gas available to

[1] It was estimated as of January 1, 1975, that there were 75 million Mcf remaining in the Hugoton Field which are committed to a November 24, 1970 contract between Applicant and Panhandle.

[2] This certificate supercedes a certificate issued on December 27, 1971, in Docket No. CI67-274 which was subsequently terminated.

Kansas Power and Light Company (KP and L).[2]

There are a number of issues involving Applicant's proposed abandonment and request for authorization to make new sales to Panhandle which compel this Commission to set the matter for a formal evidentiary hearing. First, the effect of Applicant's proposal may be to decrease the existing interstate gas supplies since the 75 million in reserves in the Hugoton Field would be released from a previous commitment to the interstate market, then sold intrastate to KP and L. However, we also note that these existing reserves would potentially be replaced by offshore Federal Domain reserves which would be required to be sold in the interstate market should they be capable of production. Yet such substitution may in some way affect the availability of supply to Panhandle which in turn may affect the availability of supply to Panhandle's customers who may already be subject to substantial curtailments existing on Panhandle's system. Second, although Panhandle would pay the same base rate for the substitute reserves, Applicant's proposal may require the payment by Panhandle of additional transportation charges since Panhandle presently has no transportation facilities in the vicinity of the subject offshore blocks. This in turn may indirectly affect rates Panhandle's customers may be charged.

No affiliation of record exists between buyer and seller.

After due notice of the application in the FEDERAL REGISTER on January 29, 1975, (40 FR 4359), Petitions to Intervene were filed by Michigan Gas Utilities Company (Michigan Gas), Citizens Gas Fuel Company (Citizens Gas) on February 4, 1975, by Panhandle Eastern Pipeline Company (Panhandle Eastern) and Michigan Gas Storage Company (Michigan Gas Storage) on February 6, 1975, all within the period required for such interventions and protests pursuant to the notice issued in the instant proceeding on January 22, 1975. No further petitions to intervene or protests to the granting of the application have been filed as of this date of issuance.

Based upon the pleadings before us, we believe that justification for the proposed substitution sale including its rate and terms, and the concurrent abandonment of the presently certificated sale, as well as other public interest issues should be established by substantial evidence in a formal evidentiary hearing. Accordingly, we will set the instant application for formal expeditious hearing.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act, particularly with respect to sections 7(b) and 7(c) that the issues involving the proposed abandonment and sale by Applicant be the subject of a formal evidentiary hearing in accordance with the procedures as set forth below.

(2) Participation by Michigan Gas Utilities Company, Citizens Gas Fuel Company, Panhandle Eastern Pipe Line Company and Michigan Gas Storage Company may be in the public interest.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act particularly sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act, a public hearing shall be held on May 28, 1975, at 10 a.m. (e.d.t.) in a hearing room at the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 concerning whether a certificate of public convenience and necessity should be granted as requested by Mesa Petroleum Company in the application filed on January 10, 1975.

(B) On or before May 6, 1975, Mesa Petroleum Company and any supporting party shall file with the Commission and serve on all parties including the Commission Staff, their testimony and exhibits comprising their case-in-chief.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority [18 CFR 3.5(d)]—shall preside at and control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure, and the purposes expressed in this order, and shall prescribe relevant procedural matters not herein provided.

(D) Michigan Gas Utilities Company, Citizens Gas Fuel Company, Panhandle Eastern Pipeline Company, and Michigan Gas Storage Company are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of this Commission; *Provided, however,* That participation by such intervenors shall be limited to matters affecting their asserted rights and interests as specifically set forth in their petitions to intervene; *Provided, further,* That the admission of such intervenors shall not be construed as recognition by this Commission that they might be aggrieved by any order entered by this Commission in the instant proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-10355 Filed 4-18-75;8:45 am]

[2] Historically, Applicant states it has supplied approximately 70 percent of the main line natural gas requirements of KP&L.

[Docket No. CP75-264]

MONTANA-DAKOTA UTILITIES CO.

Notice of Application

APRIL 15, 1975.

Take notice that on March 10, 1975, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP75-264 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain tap connection facilities and for authority to transport for and exchange with Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into a Gas Exchange and Purchase Agreement, dated January 24, 1975, with CIG which provides that Applicant transport, by exchange, gas gathered by CIG in the South Big Coulee area of Stillwater County, Montana. It is estimated that initially an average total of 1,500 Mcf of gas per day will be delivered by CIG to Applicant at a proposed tap on Applicant's Big Coulee gathering line. Applicant states that it will purchase 25 percent, or an estimated average of 375 Mcf of gas per day, at the Commission-approved rate plus a gathering and transportation charge initially set at 1.0 cent per Mcf. Applicant further states that it will redeliver to CIG, by exchange, the remaining 75 percent of the gas delivered to it, or an estimated average of 1,125 Mcf of gas per day, at existing facilities on Applicant's pipeline within the site of a processing plant operated by Amoco Production Company in Elk Basin Field, Park County, Wyoming. It is stated that CIG will pay Applicant a transportation charge equal to 6.0 cents per Mcf for transporting CIG's gas.

Applicant seeks authorization to construct and operate a tap connection on its Big Coulee line through which to receive the subject gas from CIG. The proposed tap connection will consist of a 4-inch valve, drip and a 2-inch blow-off valve. Applicant estimates the cost of the proposed facilities to be $808, which cost will be financed from funds on hand. According to Applicant all other necessary facilities at the tap connection, including measurement facilities, will be constructed by CIG. Applicant claims that the existing facilities proposed to be used to effectuate the proposed exchange have sufficient capacity without any other additions to handle adequately the gas volumes proposed herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 6, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10356 Filed 4-18-75;8:45 am]

[Docket No. RP74-35, PGA75-10]

NATIONAL FUEL GAS SUPPLY CORP.

Proposed PGA Rate Adjustment

APRIL 14, 1975.

Take notice that on April 2, 1975, National Fuel Gas Supply Corporation (Formerly United Natural Gas Company) (National), tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, Fifteenth Revised Sheet No. 3-A and Fourth Revised Sheet No. 16-A, proposed to be effective May 1, 1975.

National states that the purpose of these revised tariff sheets is to adjust National's rates pursuant to the PGA provision in Section 16 of the General Terms and Conditions. National further states that such tariff sheets reflect an adjustment in National's rates of 19.00¢ per MCF on Fourteenth Revised Sheet No. 3-A.

It is stated that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

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, N.E., 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 and 1.10). All such petitions or protests should be filed on or before April 27, 1975. 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.75-10357 Filed 4-18-75;8:45 am]

[Docket No. CI75-581]

NORTHERN MICHIGAN EXPLORATION CO.

Notice of Application

APRIL 14, 1975.

Take notice that on April 1, 1975, Northern Michigan Exploration Company (Applicant), 212 West Michigan Avenue, Jackson, Michigan 49201, filed in Docket No. CI75-581 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Company (Trunkline) from Vermilion Block 320, South Addition, offshore Louisiana, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Applicant proposes to sell to Trunkline an estimated 30,000 Mcf of gas per day from the subject acreage at the nationwide rate prescribed in § 2.56a of the Commission's General Policy and Interpretations (18 CFR 2.56a) within the contemplation of § 2.70 of the General Policy and Interpretations (18 CFR 2.70).

Applicant states that the subject gas will be available for only a limited term because it is committed by contract to a permanent sale to Consumers Power Company (Consumers Power), Applicant's parent company. Applicant further states that sale of the subject gas to Consumers Power is under consideration by the Commission in Docket Nos. CP74-322, CP75-3 and CI74-738. Applicant, accordingly, requests the termination of the limited-term sale proposed herein to be the sooner of the following dates:

(1) The date of acceptance by all necessary parties or rejection by any applicant of certificates of public convenience and necessity issued in Docket Nos. CP74-322, CP75-3 and CI74-738, or

(2) The date of denial of authorization by the Commission in the said dockets, or

(3) One year from the date of initial deliveries pursuant to the instant application.

Applicant relates that it commenced a 60-day emergency sale to Trunkline of the subject gas on April 1, 1975, pursuant to § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to commence the limited-term sale proposed in the instant application upon termination of said emergency sale.

Applicant justifies the emergency and proposed limited-term sales by the need of Consumers Power and Applicant to receive a return on their substantial investment in exploration and development efforts in the offshore area.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 2, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10358 Filed 4-18-75;8:45 am]

[Docket No. E-9365]

NORTHERN STATES POWER CO.

Filing Short Term Power Agreement

APRIL 15, 1975.

Take notice that Northern States Power Company, on April 7, 1975, tendered for filing, a Short Term Power Agreement dated April 2, 1975, with the City of Sleepy Eye, Minnesota.

The Agreement provides for either party to purchase Short Term Power from the other for periods of seven days or longer as agreed in advance. The rates for these transactions are contained in § 1.06.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., 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 and protests should be filed on or before April 24, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10359 Filed 4-18-75;8:45 am]

[Docket No. RP75-81]

NORTH PENN GAS CO.

Proposed Curtailment Plan

APRIL 15, 1975.

Take notice that on March 24, 1975, North Penn Gas Company (North Penn), 76-80 Mill Street, Port Allegany, Pennsylvania 16743, filed in Docket No. RP75-81 pursuant to Section 4 of the Natural Gas Act proposed revisions to First Revised Volume No. 1 of its FPC Gas Tariff consisting of various tariff sheets [1] to implement a proposed curtailment plan, all as more fully set forth in the sheets tendered for filing herein which are on file with the Commission and open to public inspection.

North Penn states that while Section 9 of the General Terms and Conditions of its existing tariff provides for curtailment of deliveries in the event of a *force majeure* situation, which is defined as including the inability of North Penn to obtain sufficient gas supplies, no curtailment procedure is set forth in the existing tariff. By the instant filing, North Penn adds a new Section 9A to the General Terms and Conditions of its tariff to provide for the implementation of curtailments effected under Section 9. North Penn states that under the proposed plan contained in its superseding and new tariff sheets, with a single deviation any required curtailment will be accomplished by allocation of deliveries to affected services based on the end-use priority categories and curtailment procedures specified in § 2.78 of the Commission's General Policy and Interpretations (18 CFR 2.78). The deviation from § 2.78 is said to be inclusion in curtailment Category 2 of "firm industrial requirements up to 300 Mcf per day." [2] North Penn states that firm industrial requirements up to 300 Mcf per day are included in Category 2 of the curtailment provisions of the tariffs of all three of North Penn's suppliers, Transcontinental Gas Pipe Line Corporation, Consolidated Gas Supply Corporation, and Tennessee Gas Pipeline Company, a Division of Tenaco Inc. North Penn contends that it is proper to include these small volume firm industrial requirements in Category 2 of its own curtailment plan for the reasons advanced by the Commission in Opinion 647-A and so that North Penn's curtailment plan may track the priority-of-service categories of its interstate suppliers.

North Penn states that the end-use data to be used by it in the implementation of curtailments have been recently collected by North Penn in connection with the proceeding before the Commission in Docket No. RP73-115 for the establishment of a curtailment plan for the Consolidated Gas Supply system. North Penn also indicates that its curtailment plan contains an appropriate provision for a special adjustment to curtailment to meet emergency conditions.

North Penn states that in order to enforce the provisions of its curtailment plan, North Penn has provided for the payment of overrun penalties at the rate of $10.00 per Mcf for all unauthorized volumes taken in excess of 105 percent of allocated entitlement in any month. North Penn indicates that all volumes taken during a month in excess of entitlement but not more than five percent over entitlement shall be deemed to have been taken during the next month. North Penn states that a buyer may defer taking during any month no more than five percent of its allocated entitlement and that volumes so deferred are added to the buyers' allocated entitlement for the next month.[3]

North Penn states that its curtailment plan provides for exchanges of information among North Penn and its customers. North Penn indicates that the plan also provides that, to the extent possible, North Penn shall attempt to curtail at similar magnitudes over its total system but if the necessity to curtail affects only one part of the system, curtailment will be implemented on the basis of the needs and circumstances of the affected segments of the system.

Any person desiring to be heard or to make any protest with reference to said filing should on or before May 8, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10360 Filed 4-18-75;8:45 am]

[1] First Revised Sheet No. 12 (superseding Original Sheet No. 12) and Original Sheet Nos. 12A, 12B, 12C, 12D, 12E, and 12F.

[2] North Penn states this deviation from the strict application of Order No. 467-B priority-of-service categories was first approved by the Commission in *United Gas Pipe Line Co.*, Opinion No. 647-A, 49 FPC 1211-1214, and subsequently adopted by many pipeline companies for inclusion in their own curtailment plans.

[3] North Penn states its provisions allowing a buyer to defer or to advance up to five percent of entitlements from month to month are designed to allow the buyer flexibility in serving temperature sensitive loads.

[Docket No. CI75-406]

PHILLIPS PETROLEUM CO.

Extension of Procedural Dates

APRIL 15, 1975.

On April 9, 1975, Phillips Petroleum Company filed a motion to extend the procedural dates fixed by order issued April 1, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Supporting Testimony, April 22, 1975.
Hearing, May 7, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10361 Filed 4-18-75;8:45 am]

[Docket No. RP 75-13]

TENNESSEE GAS PIPELINE CO.

Further Extension of Procedural Dates

APRIL 15, 1975.

On April 4, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued October 11, 1974, as most recently modified by notice issued January 27, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff's Testimony, July 14, 1975.
Service of Intervenor's Testimony, August 11, 1975.
Service of Company Rebuttal, September 8, 1975.
Hearing, September 16, 1975 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10362 Filed 4-18-75;8:45 am]

[Docket No. CP75-295]

TEXAS GAS TRANSMISSION CORP.

Petition for Declaratory Order

APRIL 15, 1975.

Take notice that on March 21, 1975, Texas Gas Transmission Corporation (Petitioner), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CI75-570 a petition for a declaratory order holding that deliveries of gas to Petitioner from the acreage of Edwin L. Cox, *et al.*, unitized in the "C" Sand Unit produced by the Edwin L. Cox No. 1 Intercoastal Shipyard Well, cannot be diverted from the interstate market into the intrastate market unless Cox first obtains authorization for abandonment of service pursuant to section 7(b) of the Natural Gas Act, and directing that prior to the issuance of a final order of the Commission authorizing the abandonment of service pursuant to section 7(b) Cox shall cease and desist deliveries of natural gas from such well to its intrastate purchaser and that Cox shall provide for the redelivery of equivalent volumes of gas to Petitioner which were theretofore delivered to the intrastate purchaser, all as more fully set forth in the petition, which is on file with the Commission and open to public inspection.

In support of its petition Petitioner states the following facts:

(1) Cox operates the subject well, which is producing from the "C" Sand in

the Ramos Field, St. Mary Parish, Louisiana, and which was drilled and completed on a tract of land from which production is covered by various gas purchase contracts between Petitioner and certain producers of natural gas, on file as FPC gas rate schedules, and pursuant to which sales are authorized by various certificates issued by the Commission.[1]

(2) The Department of Conservation, State of Louisiana, by order issued on August 6, 1968, caused to be unitized with lands covered by the hereinabove mentioned contracts certain lands not covered by said contracts.

(3) The subject well commenced production on August 30, 1968. All gas was delivered to Petitioner pursuant to the subject gas purchase contracts.

(4) After such initial deliveries to Petitioner, Cox and Petitioner entered into negotiations concerning the gas production from the lands not covered by the above-described contracts.

(5) A gas purchase contract was executed and an application for a certificate of public convenience and necessity was filed with the Commission in Docket No. CI71-117. The application was with drawn on July 28, 1971.

(6) At all times from August 5, 1968, to on or about March 5, 1975, 100 percent of the gas produced from the Edwin C. Cox No. 1 Intercoastal Shipyard Well was delivered and sold to Petitioner pursuant to the aforementioned gas purchase contracts. All such gas was sold for resale by Petitioner in interstate commerce.

(7) Cox commenced diverting a portion of the gas from the subject well to to intrastate commerce on or about March 5, 1975, pursuant to a negotiated contract with Louisiana Interstate Gas Corporation.

In view of these facts, Petitioner requests the Commission to issue a declaratory order as hereinbefore described.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 5, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-10365 Filed 4-18-75;8:45 am]

[1]

Seller	Contract date	Rate schedule No.	Docket No.
Gulf Oil Corp. (Gulf).	Dec. 19, 1961	355	CI62-1016
Gulf	Nov. 22, 1957	338	G-14515
Amerada Hess Corp.	Oct. 17, 1966	140	CI67-637
Texas International Petroleum Corp. (successor to J.C. Trahan Drilling Contractor, Inc.)	Dec. 18, 1961		CS71-555

GENERAL SERVICES ADMINISTRATION

ARCHIVES ADVISORY COUNCIL

Meeting

Notice is hereby given that the Archives Advisory Council shown below will meet at the times and place indicated. Anyone who is interested in attending or wants additional information should contact the person shown below.

REGIONAL ARCHIVES ADVISORY COUNCIL, REGION 4

Meetings dates: May 15-16, 1975.

Times: May 15: 1 p.m. to 4:45 p.m.; May 16: 8 a.m. to 12 noon.

Place: Conference Room, Atlanta Federal Archives and Records Center, 1557 St. Joseph Avenue, East Point, Ga. 30344.

Agenda: Recent legislation affecting the National Archives and Records Service; reports of archives activities in Regions 4 and 5; orientation on records management and its impact on archives programs; professional relations, publicity, regional symposia, and the role of the Advisory Council; archives intern programs; deposited microfilm and interlibrary loan operations.

For further information contact: Mr. E. L. Johnson, NARS Regional Commissioner (GSA), 1776 Peachtree St., NW., Atlanta, Ga. 30309. (404) 526-3681.

Issued in Washington, D.C., on April 10, 1975.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.75-10314 Filed 4-18-75;8:45 am]

[GSA BULLETIN FPR 22]

FEDERAL PROCUREMENT

Cost Accounting Standards Board (CASB) Cognizant Contracting Officers; Interagency Administration

APRIL 11, 1975.

1. *Purpose.* This bulletin provides the means for identifying or verifying cognizant contracting officers for CASB matters.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Background.* a. The regulations and standards of the Cost Accounting Standards Board are implemented by Subpart 1-3.12 of the Federal Procurement Regulations for negotiated national defense and nondefense contracts. Many of the duties involving CASB matters are assigned by the FPR to a single contracting officer for each contractor/subcontractor.

b. The various components of the Department of Defense already have assigned a CASB cognizant contracting officer for the large majority of contractors/subcontractors subject to CASB rules and regulations. This contracting officer is also the cognizant Government representative for nondefense contracts awarded by the various civilian agencies. In the event such an assignment does not exist, § 1-3.1208 of the FPR provides that the predominant interest agency will make the cognizant contracting officer assignment.

c. It is desirable and appropriate that the negotiator/contracting officer awarding a contract and the assigned CASB cognizant contracting officer establish a cooperative working relationship. While the individual contractor/subcontractor normally will know the identity of his CASB cognizant contracting officer, the contracting officer who signs the contract may need other means to identify that individual.

d. Actual assignments of cognizant contracting officers may change from time to time. Accordingly, agency contract points are provided by this bulletin that can identify the appropriate cognizant contracting officer within an agency.

4. *Agency contact points for the identification of cognizant contracting officers.* a. Attachment A to this bulletin is a list of contact points in Federal agencies that are responsible for the identification of cognizant contracting officers for CASB matters when an agency is the predominant interest agency as the term is defined in § 1-3.1208 of the Federal procurement regulations (Title 41, Code of Federal Regulations, Chapter 1). By means of these contact points, a Government negotiator in any agency can ascertain the identify of the Government contracting officer who has cognizance over CASB matters of a particular contractor/subcontractor with whom he may be considering the award of a negotiated contract(s) subject to CASB rules and regulations.

b. Cognizant contracting officers for CASB matters are assigned by various contract administration service components of the Department of Defense. Each contractor/subcontractor is assigned to a DOD service component as listed in the "DOD Directory of Contract Administration Services Components (DOD 4105.59 H)." Most of the needs for information can be satisfied by telephone contacts. However, Government agencies may make written requests for limited quantities (up to 5) of the DOD Directory. Contact points are listed in Attachment A.

c. Cognizant contracting officers for CASB matters are assigned by civilian agencies only when an assignment has *not* been made for a particular contractor/subcontractor by a Department of Defense contract administration services component. The assignment of a cognizant contracting officer for CASB matters in these cases is the responsibility of the predominant interest agency (see

§ 1-3.1208 of the FPR). Therefore, requests for the identity of the cognizant contracting officer should be made to the contact point of that agency listed in Attachment A that has the predominant interest in the particular contractor/subcontractor of concern.

R. E. ZECHMAN,
Associate Administrator for Federal Management Policy.

APPENDIX A

AGENCY CONTACTS FOR THE IDENTIFICATION OF COGNIZANT CONTRACTING OFFICERS

DEPARTMENT OF DEFENSE

1. Telephone contacts: (a) Nearest defense contract administration services office, or (b) Defense Supply Agency, Attn: DCAS-JT, Mr. Roy Roberts, or Mr. Richard Meyer, Telephone: (703) 274-7584.

2. DOD Directory (see paragraph 4b.): Agency requests for a limited number of copies or inclusion on the mailing list should be directed as follows: Defense Supply Agency, Attn: DSAH-XM, Cameron Station, Alexandria, Virginia 22314.

CIVILIAN AGENCIES

1. *Agency for International Development, Department of State* (also see State), Office of Contract Management, Supply Division, Overhead and Special Costs Branch, Washington, DC 20523, (703) 235-9855, F. J. Moncada.

2. *Agriculture, Department of*, Office of Operations, Procurement, Grants and Agreements Management Staff, Room 131-W, Administration Building, Washington, DC 20250, (202) 447-7527, Louis W. Perrygo.

3. *Arms Control and Disarmament Agency, United States*, General Counsel, Room 5534—State Department Building, 21st and Virginia Avenue, NW., Washington, DC 20451, (202) 632-3582, James L. Malone.

4. *Central Intelligence Agency*, Office of Logistics, Procurement Management Staff, Washington, DC 20505, (703) 351-3046, A. T. Ohason.

5. *Commerce, Department of*, Deputy Director, OAS&P, Washington, DC 20230, (202) 967-2773 or Code 189, P. A. LaBonte.

6. *Energy Research and Development Administration*, C-167, Washington, DC 20545, (301) 973-4542, R. P. White.

7. *Environmental Protection Agency, United States*, Contracts Management Division, Cost Review and Policy Branch, Room 711, Crystal Mall Building #2, Washington, DC 20460, (703) 557-7986, Donald L. Hambric.

8. *Federal Communications Commission*, Procurement Division, Washington, DC 20554, (202) 632-6407, Kenneth A. Gordon.

9. *General Services Administration, Automated Data & Telecommunications Service*, ADP Procurement Division, Agency Procurement Branch (CDPA), Washington, DC 20405. (202) 343-5943, Harold J. Dougherty.

Federal Supply Service, Office of Procurement, Policy and Procedures Division (FPP), Washington, DC 20406. (703) 557-8543 or 8540, Ray Hill or John Harms.

Public Buildings Service, Office of the Executive Director, Management Review Division (PFM), Washington, DC 20405. (202) 343-5114, Lewis Hall.

10. *Health, Education, and Welfare, Department of*, Office of Grants and Procurement Management Director, Division of Procurement Policy and Regulations Development, 330 C Street, SW., Room 3086. (202) 245-8791, Murray N. Weinstein.

11. *Housing and Urban Development, Department of*, Office of Procurement and Contracts (OPC), 451 7th Street, SW., Washington, DC 20410. (202) 755-5064, Walter Stark.

12. *Information Agency, United States*, Contract and Procurement Division, Washington, DC 20547. (202) 632-5116, James T. McIlwee.

13. *Interior, Department of*, Office of Management Services, Division of Procurement, Washington, DC 20240. (202) 343-5914, Raymond L. Barlow or William S. Opdyke.

14. *Justice, Department of* (includes LEAA), Office of Management and Finance, Security and Administrative Services Staff, Administrative Services Group, Washington, DC 20530, (202) 739-2971, William H. O'Donoghue.

15. *Labor, Department of*, Office of the Comptroller, Office of Grant and Procurement Policy, Room N 1505, 200 Constitution Avenue NW., Washington, DC 20210. (202) 523-6974, Theodore Goldberg.

16. *Law Enforcement Assistance Administration* (see Justice).

17. *Library of Congress*, Procurement and Supply Division, Washington, DC 20540. (202) 426-5180, John G. Kormos or Philip S. Kramer.

18. *National Aeronautics and Space Administration*, Pricing Division (Code HC), Washington, DC 20546. (202) 755-2310, Mrs. Arlene A. Brown.

19. *National Science Foundation*, Contracts Branch, Washington, DC 20550. (202) 632-5872, Leonard A. Redecke.

20. *Panama Canal Company*, President, Balboa Heights, Canal Zone. (202) 382-6453, Thomas M. Constant, Secretary.

21. *Smithsonian Institution*, Office of Supply Services, Washington, DC 20560. (202) 381-5924, H. P. Barton.

22. *Small Business Administration*, Administrative Services Division, 1441 L Street NW., Washington, DC 20416. (202) 382-5333, W. W. Bears.

23. *State, Department of (also see AID)*, Supply and Transportation Division, Procurement Branch, Washington, DC 20520. (703) 235-9531, Gerald L. John.

24. *Transportation, Department of*, Office of Installations and Logistics, Procurement Management Division (TAD-62), 400 7th Street SW., Washington, DC 20590. (202) 426-4129, Edward G. Rock.

25. *Treasury, Department of*, Office of Administrative Programs (Procurement and Personal Property Management), Washington, DC 20220. (202) 634-5020, Thomas P. O'Malley.

26. *Veterans Administration*, Department of Medicine and Surgery, Supply Service, Chief, Procurement Division (134C), Washington, DC 20420. (202) 389-3054, Joseph M. Cumiskey.

[FR Doc.75-10313 Filed 4-18-75;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (75-30)]

ADVISORY BOARD ON AIRCRAFT FUEL CONSERVATION TECHNOLOGY

Meeting

The Advisory Board on Aircraft Fuel Conservation Technology will meet on May 7, 1975, at NASA Headquarters, Washington, D.C. 20546. The meeting will be held in Room 625 of Federal Office Building 10B, 600 Independence Avenue SW. Members of the public will be admitted on a first-come, first-served basis, up to the seating capacity of the room which is about 40 persons. All visitors must sign in prior to attending the meeting.

The Advisory Board on Aircraft Fuel Conservation Technology serves in an advisory capacity. Its Chairman is Dr. Raymond L. Bisplinghoff, and there are 13 members. The following list sets forth the approved agenda and schedule for the meeting of this Advisory Board on May 7, 1975. For further information, please contact the Executive Secretary, Mr. James J. Kramer, Area Code 202-755-2403.

MAY 7, 1975

Time	*Topic*
9 a.m.	Remarks by the Chairman. (Purpose: To welcome the Advisory Board members and review the functions of the Board.)
9:15 a.m.	Background Briefing by the Associate Administrator for Aeronautics and Space Technology. (Purpose: To familiarize the Advisory Board with NASA's ongoing Aircraft Fuel Conservation Technology Program and explain the impetus and rationale for the consideration of an expanded program.)
10 a.m.	Report by the Executive Secretary. (Purpose: To report on the Aircraft Fuel Conservation Technology Program Plan prepared by a Task Force of NASA and other Government agency personnel.)
1 p.m.	Advisory Board Discussion. (Purpose: To discuss and evaluate the Task Force plan for the purpose of preparing opinions and recommendations to NASA on its future Aircraft Fuel Conservation Technology Program.)
3:30 p.m.	Advisory Board Chairman's Summary. (Purpose: To present a summary of the Advisory Board's opinions and recommendations as to how NASA should direct its efforts toward aircraft fuel conservation.)
4:30 p.m.	Consideration of Future Advisory Board Activities. (Purpose: To determine what actions the Advisory Board should undertake in the future.)
5 p.m.	Adjournment.

Dated: April 17, 1975.

DUWARD L. CROW,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.75-10331 Filed 4-18-75;8:45 am]

NATIONAL COMMISSION FOR MANPOWER POLICY

ORGANIZATION AND PROCEDURES

I. *Establishment and Purpose*—A. *Purpose.* The National Commission for Manpower Policy was established by Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 93-203). The Act charges the Commission

with the broad responsibility of advising the Congress, the President, the Secretary of Labor, as well as other Federal agency heads on national manpower issues. The Commission has been established to provide a basis for policy analysis and recommendations from a cross section of concerned Federal agencies and the involved public groups and national sectors. The Commission has the following responsibilities:

(1) To identify the manpower goals and needs of the Nation and assess the extent to which employment, training, and other manpower programs now administered by several Federal agencies are meeting these needs and the extent to which these activities represent a consistent, integrated and coordinated approach to meeting such needs and achieving such goals;

(2) To examine and evaluate the effectiveness of Federally assisted manpower development and related programs;

(3) To conduct evaluations, research, hearings, or other studies to enable it to make appropriate manpower recommendations;

(4) To report annually to the Congress and the President on its findings and recommendations on the Nation's Manpower policies and programs;

(5) To conduct a study of the utilization and interrelation of manpower development programs conducted under the Comprehensive Employment and Training Act with closely associated activities such as the Employment Service under the Wagner-Peyser Act and various welfare retraining efforts. The Commission is to report to the President and Congress on how these programs can be more effectively combined and coordinated to serve individuals, particularly at the State and local levels; and

(6) To conduct a continuing review of the impact of energy requirements on manpower and employment needs.

B. *Composition.* The National Commission for Manpower Policy began its operations in the fall of 1974 with the appointment of its public members in accord with its authorizing statute. The Commission is composed of 17 members, six heads of Federal agencies and eleven public members appointed by the President.

Federal government representatives are the Secretaries of Defense, Agriculture, Commerce, Labor, Health, Education, and Welfare, and the Administrator of Veterans Affairs. The public members are broadly representative of labor, industry, commerce, education, State and local elected officials concerned with manpower programs, persons served by these programs, and the general public. The following public members were appointed by the President on September 30, 1974:

Dr. Eli Ginzberg, Chairman, A. Barton Hepburn Professor of Economics and Director, Conservation of Human Resources, Columbia University, New York

Rudolph A. Cervantes, President, Rudy Cervantes Neckwear, Inc., Los Angeles, California

Dr. Dorothy Ford, Manager, Personnel and Employee Development, Southern California Edison, Rosemead, California

Mr. John V. N. Klein, County Executive, Suffolk County, New York

Dr. Juanita Kreps, Vice-President and Professor of Economics, Duke University, Durham, North Carolina

Mr. John H. Lyons, General President, International Association of Bridge, Structural, and Ornamental Iron Workers Union, Washington, D.C.

Honorable William G. Milliken, Governor of the State of Michigan, Lansing, Michigan

Dr. John W. Porter, Superintendent of Public Instruction for the State of Michigan, Lansing, Michigan

Dr. Milton L. Rock, Managing Partner of Hay Associates, Philadelphia, Pennsylvania

The Reverend Leon H. Sullivan, Pastor of Zion Baptist Church, Philadelphia, Pennsylvania

The appointment of a mayor to the Commission is currently being processed.

C. *Organization of the Commission.* (1) The Commission's headquarters are located at the following address:

1522 K Street, NW., Suite 300, Washington, D.C. 20005. Telephone No.: 202-961-4291.

(2) The Commission conducted its first formal meeting on November 14, 1974. At this meeting, the Commission chairman's nomination of Mr. Robert T. Hall as Director was confirmed by all Commission members. This designation of a federal officer as Director of the Commission was pursuant to section 10 (e) of the Federal Advisory Committee Act (Pub. L. 92-463).

(3) To better achieve the broad and specific responsibilities of the Commission, four standing working groups were established on November 14, 1974, in the following areas: (1) coordination of manpower training and associated programs; (2) income maintenance; (3) economic policy and jobs; and (4) manpower resources and requirements. Each working group is composed of selected Commission members and is augmented by consultants and other experts as appropriate, including senior representatives of federal agencies. These working groups, which meet on a frequent basis, provide specific guidance to the development of staff work in the subject area, pose the issues to be addressed and draw basic conclusions and formulate major recommendations and alternates to be considered by the full Commission. Final policy conclusions and recommendations are the responsibility of the full Commission.

II. *Operational Procedures and Requirements.* The operational and administrative procedures of the Commission were approved by the Commission at its November 14 meeting. The following shall constitute the public announcement by the National Commission for Manpower Policy as to its official operating procedures and requirements. These procedures conform to the establishing statute, the Comprehensive Employment and Training Act (Pub. L. 93-203), the Federal Advisory Committee Act (Pub. L. 92-463), and the appropriate regulations of the Office of Management and Budget.

A. *Formal Meeting.* (1) The Commission shall meet at the call of the Chairman with the concurrence of the Federal Officer designated as Director of the Commission. Pursuant to section 10(e) of the Federal Advisory Committee Act, the Director of the Commission may, whenever he determines it to be in the public interest, adjourn any such meeting. No meeting shall be conducted in the absence of the Director who shall also approve the agenda items. As necessary the Director may chair the Commission meeting in the absence of the Chairman or other designated temporary Chairman.

(2) At least three formal commission meetings over a twelve month period shall be held by June of each year. The attendance of 11 Commission members or their authorized designates shall constitute a quorum. Only Commission embers who are representatives of federal agencies or elected public officials may appoint an authorized alternate representative.

(3) Notification of the date and timing of all formal Commission meetings and pertinent information such as the location and major agenda items shall be published in the FEDERAL REGISTER at least 15 days before the date of the meeting. In addition appropriate advance press notice shall be given and notification of the meeting shall be given to the Department of Labor Committee Management Officer.

(4) Members of the general public or other interested individuals may attend Commission meetings. Such individuals may submit statements in writing to the Commission before or after a meeting which are germane to agenda items. Such statements shall be submitted in reproduceable form to the Director of the Commission no later than 2 days before or 7 days after the meeting.

(5) Members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written application to make an oral statement must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: the applicant; the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individuals qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at any meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

(6) Detailed minutes will be kept of each Commission meeting including the following items:

(a) The time and place of the meeting;
(b) A list of Commission members and staff and agency employees present at the meeting;
(c) A complete summary of matters discussed and conclusions reached;
(d) Copies of all reports received, issued, or approved by the Commission;
(e) An explanation of the extent of public participation including a list of members of the public;
(f) An explanation of the extent of public participation including a list of members of the public who presented oral or written statements; and
(g) An estimate of the number of members of the public who attended the meeting.

The Chairman shall certify as to the accuracy of the minutes.

B. *Availability of Commission Documents.* (1) All formal reports of the Commission will be provided to all members of Congress, the President, all Commission members, appropriate federal agencies and councils, and appropriate public groups or associations.

(2) All records, reports, and other documents of the Commission shall be available for public inspection and copying pursuant to the provisions of the Freedom of Information Act, 5 U.S.C. 552. Requests for such inspection shall be made to the Director who will, if appropriate, make arrangements for any requested copying at a fee commensurate with the costs involved.

(3). Eight copies of each official report of the Commission and, where appropriate, background papers prepared by consultants, shall be deposited with the Library of Congress.

Signed this 16th day of April 1975.

ROBERT T. HALL,
Director, National Commission for Manpower Policy.

[FR Doc.75-10311 Filed 4-18-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-23 issued to Carolina Power and Light Company (the licensee) for operation of the H. B. Robinson, Unit 2, located in Darlington County, Hartsville, South Carolina.

The amendment would revise provisions in the Technical Specifications in accordance with the licensee's application for amendment dated January 24, 1975, relating to the heatup and cooldown limitations for the reactor coolant system to provide for: (a) revised heatup and cooldown limitations, (b) revised nil-ductility temperature curves, (c) a reporting requirement for the irradiation specimen measurement program, (d) hydrostatic leak tests and maximum test pressures, and (e) maximum operating conditions for criticality.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By May 21, 1975, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation 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 the 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 this FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts, Trowbridge, & Madden, Barr Building, 910 17th Street, N.W., Washington, D.C. 20006, the 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 Commission or 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 application for amendment dated January 24, 1975, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29550. The license amendment and the Safety Evaluation, when issued, may be inspected at the above locations and a copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland this 11th day of April, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-10145 Filed 4-18-75;8:45 am]

[Docket No. 50-261]

CAROLINA POWER & LIGHT CO.

Notice of Availability of Final Environmental Statement for the H. B. Robinson Steam Electric Plant, Unit No. 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that the Final Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation, related to the operation of the H. B. Robinson Steam Electric Plant, Unit No. 2, by Carolina Power and Light Company in Darlington County, South Carolina, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the Hartville Memorial Library, Home and Fifth Avenues, Hartville, South Carolina 29550. The final Environmental Statement is also being made available at the State Clearinghouse, Division of Administration, 1205 Pendleton Street, 4th floor, Columbia, South Carolina 29201, and at the Pee Dee Regional Planning and Development Council, P.O. Box 4366, Florence, South Carolina 29501.

The notice of availability of the Draft Environmental Statement for the H. B. Robinson Steam Electric Plant, Unit No. 2, and requests for comments from interested persons was published in the FEDERAL REGISTER on April 23, 1973 (38 FR 10035). The comments received from Federal, State, local and interested members of the public have been included as appendices to the Final Environmental Statement.

Copies of the Final Environmental Statement (Document No. NUREG 75-024 may be purchased, at $7.25 from the National Technical Information Service, Springfield, Va. 22161.

Dated at Rockville, Maryland, this 16th day of April 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-10445 Filed 4-18-75;8:45 am]

[Dockets Nos. 50-460, 50-513]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM (WPPSS HANFORD NO. 1 AND NO. 4)

Final Prehearing Conference and Evidentiary Hearing

The U.S. Atomic Energy Commission (now the U.S. Nuclear Regulatory Commission (the Commission)) by its September 16, 1974 "Notice of Receipt of Amended Application for Construction Permits and Facility Licenses and Notice of Hearing on Amended Application for Construction Permits: Time for Submission of Views on Antitrust Matters" (Notice of Hearing), ordered a hearing to be held on the application by the Washington Public Power Supply System (the Applicant) for construction permits for two pressurized water reactors designated as WPPSS Nuclear Project No. 1 and No. 4. Each of the proposed facilities is to be designed for operation at approximately 3600 megawatts thermal with a net electrical output of 1206 megawatts. The proposed facilities are to be located at the Applicant's site 17 miles southeast of the Hanford 1 site, on the Hanford reservation in Benton County, near Richland, Washington. This hearing will be evidentiary in nature and will be conducted pursuant to the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*, the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, and the Commission's rules and regulations set out in Title 10, Code of Federal Regulations (CFR).

The hearing on this application will be conducted by the Atomic Safety and Licensing Board (the Board) appointed by the Commission in the Notice of Hearing. The Board consists of Dr. Marvin M. Mann and Dr. Donald P. deSylva as technically qualified members, and Daniel M. Head as Chairman.

A petition to intervene as an interested State was filed by the Thermal Power Plant Site Evaluation Council of the State of Washington (the Thermal Council) and a petition to intervene individually was filed by Mr. Donald F. X. Finn. These petitions were granted by the Board in its Memorandum and Order of March 20, 1975 and both the Thermal Council and Mr. Finn are party intervenors in this action. Therefore, the parties at the evidentiary hearing will consist of the Applicant, the Commission's Regulatory Staff (the Staff), the Thermal Council and Mr. Finn.

The Applicant filed a motion requesting a separate hearing on environmental and site suitability issues pursuant to 10 CFR 2.761a. This motion was granted by the Board by Memorandum and Order dated April 7, 1975, and the purpose of this Notice and Order is to schedule the evidentiary hearing relating to those matters. Specifically, in the partial initial decision resulting from the separate hearing, the Board will resolve the following issues:

(1) Decide those matters in controversy among the parties which are within the scope of NEPA and 10 CFR Part 51;

(2) Determine whether the requirements of section 102(2) (A), (C) and (D) of NEPA and 10 CFR Part 51 have been complied with in the proceeding;

(3) Independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken;

(4) After weighing the environmental, economic, technical and other benefits against environmental and other costs, and considering available alternatives, determine whether the construction permit should be issued, denied, or appropriately conditioned to protect environmental values; and

(5) Determine whether, in accordance with 10 CFR Part 51, the construction permits should be issued as proposed;

(6) Determine whether, based upon the available information and review to date, there is reasonable assurance that the proposed site is a suitable location for a nuclear power reactor of the general size and type proposed from the standpoint of radiological health and safety considerations under the Atomic Energy Act and under the rules and regulations promulgated by the Commission pursuant thereto; and

(7) Determine, with regard to construction activities that may be authorized pursuant to 10 CFR 50.10(e)(3), whether there are any unresolved safety issues which would constitute good cause for withholding such authorization.

An additional purpose of this Notice and Order is to set the Final Prehearing Conference required by 10 CFR 2.752 and to cover the issues specified therein for such Final Prehearing Conference. The Final Prehearing Conference will be held immediately before the evidentiary hearing on environmental and site suitability issues.

Further, the parties by stipulation submitted to the Board on April 14, 1975, a copy of which is attached hereto as Exhibit A, have agreed that they will be ready to commence the evidentiary hearing on environmental and site suitability issues on Tuesday, May 13, 1975. The Board had originally indicated by its Memorandum and Order dated April 7, 1975 that it would schedule the evidentiary hearing on those matters for April 29, 1975, but in view of the agreement between the parties, the Board will set the hearing for May 13, 1975. The Board also notes the agreement between the parties in their stipulation regarding a revised schedule for discovery and hereby approves that portion of the stipulation.

Accordingly, please take notice and it is hereby ordered, That the Final Prehearing Conference relating to environmental and site suitability issues is scheduled to begin at 10 a.m. local time on Tuesday, May 13, 1975, in Room 189, U.S. District Courtroom, U.S. Post Office and Courthouse, 825 Jadwin Avenue, Richland, Washington 99352.

In addition, please take notice and it is hereby ordered, That the evidentiary hearing on the environmental and site suitability issues specified above is scheduled to begin immediately following the Final Prehearing Conference provided for in the preceding paragraph. This evidentiary hearing shall run continuously until all evidence has been received on the specified issues or until continued by further order of the Board.

Members of the public are invited to attend this Final Prehearing Conference and the evidentiary hearing as scheduled above. Individuals or organizations wishing to make limited appearances pursuant to 10 CFR 2.715(a) will be permitted to do so just prior to the start of the evidentiary hearing. The Board anticipates that this will be during the morning session on Tuesday, May 13, 1975.

Issued at Bethesda, Maryland, this 15th day of April 1975.

By order of the Safety and Licensing Board.

DANIEL M. HEAD,
Chairman.

EXHIBIT A

In the matter of Washington Public Power Supply System (Nuclear Projects No. 1 and No. 4), Dockets Nos. 50-460, 50-513.

Stipulation. Washington Public Power Supply System ("Applicant"), the NRC Regulatory Staff, and the intervenor Donald F. X. Finn hereby stipulate to the following schedule for the taking of discovery and commencement of hearings in the captioned matter.

1. All written interrogatories, all requests for production of documents or things or permission to enter upon land or other property for inspection or other purposes, and all requests for admissions shall be served by the party seeking discovery on or before April 11, 1975.

2. All responses to written interrogatories, to requests for production of documents or things or permission to enter upon land or other property for inspection or other purposes, and to requests for admission shall be served by the party of whom discovery is sought on or before May 2, 1975.

3. All depositions upon oral examination or written interrogatories shall be taken by the party seeking discovery on or before May 2, 1975.

4. All parties will be prepared to commence hearings on the issues covered by 10 CFR 50.10(e)(2) and (3) and by 10 CFR 51.52 on May 13, 1975.

The Applicant further stipulates that upon the execution of this stipulation it will withdraw and not maintain its appeal from the "Memorandum and Order" issued by the Atomic Safety and Licensing Board in the captioned matter on March 20, 1975. Said appeal was noticed by the Applicant on March 27, 1975.

The foregoing is stipulated to by the parties through their respective attorneys.

Dated: April 4, 1975.

J. B. REYNOLDS,
Washington Public Power Supply System.

Dated: April 7, 1975.

ROBERT H. CULP,
NRC Regulatory Staff.

Dated: April 9, 1975.

DONALD F. X. FINN,
Intervenor.

[FR Doc.75-10336 Filed 4-18-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

COLUMBIA GAS SYSTEM, INC. ET AL.

Proposed Intrasystem Financing

[Rel. No. 18929 (70 5656)]

APRIL 11, 1975.

In the Matter of The Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807; Columbia Gas of West Virginia, Inc.; Columbia Gas of Kentucky, Inc.; Columbia Gas of Virginia, Inc.; Columbia Gas of Ohio, Inc.; The Inland Gas Co., Inc.; Columbia Gas of Pennsylvania, Inc.; Columbia Gas of New York, Inc.; Columbia Gas of Maryland, Inc.; Columbia Hydrocarbon Corporation; Columbia Gas Transmission Corporation; Columbia LNG Corporation; Columbia Gas Development Corporation; Columbia Gas Development of Canada Ltd.; Columbia Coal Gasification Corporation.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and its above-named wholly-owned subsidiary companies (hereinafter referred to as "Columbia of W. Va.", "Columbia of Ky.", "Columbia of Va.", "Columbia of Ohio", "Inland", "Columbia of Pa.", "Columbia of N.Y.", "Columbia of Md.", "Hydrocarbon", "Columbia Transmission", "Columbia LNG", "Development U.S.", "Development Canada" and "Coal Gasification") have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 (b), 9(a), 10, 12(b), and 12(f) of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

The subsidiary companies propose to issue and sell, and Columbia proposes to acquire, prior to April 1, 1976, (a) unsecured installment notes not in excess of the respective amounts set forth below and (b) common stock, at the par value, in the respective amounts set forth below. Columbia also proposes to advance on open account to certain of the subsidiary companies, from time to time during 1975, up to the respective amounts set forth below:

[In thousands]

	Advances	Common stock	Installment notes
Columbia of West Virginia	$7,900	$2,500	$3,500
Columbia of Kentucky	5,800		1,300
Columbia of Virginia	1,100		600
Columbia of Pennsylvania	11,200		9,200
Columbia of New York	1,500		800
Columbia of Maryland	800		1,100
Columbia of Ohio	41,100		16,500
Columbia Transmission	81,600		35,000
Inland			1,250
Hydrocarbon	5,000		
Coal Gasification		2,000	2,000
Columbia LNG		32,400	15,600
Development United States			100,000
Development Canada		11,500	
Total	156,000	48,400	186,850

The subsidiary companies will use the proceeds from the issue and sale of their notes and common stock along with internally generated funds to finance their respective construction programs and other corporate needs. Construction programs, in the aggregate, are estimated for 1975 to require net capital expenditures of $317,975,000. The proceeds of the open account advances will be used by the subsidiary companies to finance the purchase of underground storage gas inventories and miscellaneous other inventories and for short-term seasonal purposes.

The installment notes will be acquired no later than March 31, 1976, will be dated when issued and may be prepaid at any time, in whole or in part, without premium. The installment notes will, except in the cases of Columbia LNG and Coal Gasification, be payable in twenty-five (25) equal annual installments on March 31 of each of the years 1977–2001, inclusive. The installment notes issued by Columbia LNG for financing the Cove Point, Maryland storage and regasification facility, in the amount of $15,600,000 will be due in twenty (20) equal annual installments on October 1 of each of the years 1977 to 1996, inclusive. The installment notes issued by Coal Gasification in the amount of $2,000,000 will be due in twenty (20) equal annual installments on March 31 of each of the years 1980 to 1999, inclusive. Interest on all of the notes will accrue from the date of issue and is to be paid semiannually on the unpaid principal balance. The interest rate will be the actual cost of money to Columbia with respect to its last sale of debentures and/or preferred stock prior to the issuance of said notes, decreased by an amount necessary in order that the interest rate be a multiple of 1/10th of 1 percent. The installment notes to be issued initially will, therefore, bear an interest rate of 9.8 percent and installment notes to be issued subsequent to Columbia's future financings will carry an interest rate related to the last such sale of securities prior to the issuance of said notes.

The proposed open account advances will be made by Columbia from time to time during 1975 and will be paid by the subsidiary companies in three equal installments on February 27, March 31, and April 30, 1976. The open account advances will initially bear interest at the prime commercial bank rate in effect from time to time at Morgan Guaranty Trust Company of New York. The interest charges will be adjusted, after the storage financing period, to the effective interest cost Columbia achieves on its short-term borrowing for this purpose.

In addition to this application, Columbia currently has on file with the Commission applications to issue and sell short-term notes to banks and to dealers in commercial paper in the aggregate amount of $216,000,000 (File No. 70–5663), and to issue and sell $50,000,000 of preferred stock in May 1975 (File No. 70–5661). Columbia may also find it necessary to undertake another financing later in 1975; any such financing will be the subject of a future application to this Commission.

The expenses to be paid by Columbia and by the subsidiary companies in connection with the proposed transactions are estimated at $5,600. It is requested that authority be granted to file certificates under Rule 24 with respect to the proposed transactions on a quarterly basis.

The application-declaration states that the following State commissions have jurisdiction over certain of the proposed transactions: The Pennsylvania Public Utility Commission, the Public Service Commission of West Virginia, the Public Utilities Commission of Ohio, the State Corporation Commission of Virginia, the State of New York Public Service Commission and the Public Service Commission of Kentucky. It is also stated that the orders of said commissions will be filed with this Commission by amendment. No other State commission and no Federal commission, other than this Commission, is stated to have jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than May 8, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Per-

sons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.75-10173 Filed 4-18-75;8:45 am]

ADVISORY COMMITTEE ON THE IMPLEMENTATION OF A CENTRAL MARKET SYSTEM

Notice of Meeting

This is to give notice pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I 10(a), that the open meetings of the Securities and Exchange Commission Advisory Committee on the Implementation of a Central Market System originally scheduled for May 8 and 9, 1975 (as noticed in the FEDERAL REGISTER of March 19, 1975 at page 12550) have been postponed until May 15 and 16, 1975.

The meetings will be held in Room 776, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, beginning at 8:30 a.m.

Further information may be obtained by writing Andrew P. Steffan, Director, Office of Policy Planning, Securities and Exchange Commission, Washington, D.C. 20549, beginning at T:30 a.m.

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

[FR Doc.75-10323 Filed 4-18-75;8:45 am]

[Administrative Proceeding File No. 3-4640; File No. 2-37401 (22-6087)]

AMERICAN AIRLINES, INC.

Application and Opportunity for Hearing

APRIL 11, 1975.

Notice is hereby given that American Airlines, Inc. (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeships of Bankers Trust Company under three existing indentures not qualified under the Act, under one existing indenture so qualified and under a new indenture not to be so qualified is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bankers Trust Company from acting as trustee under one of such indentures.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges the following:

(1) the Applicant, a Delaware Corporation, intends to finance the acquisition of six Boeing Model 727-223 Aircraft by placing with one or more institutional investors approximately $33 million principal amount of certificates which certificates are expected to be issued pursuant to a trust indenture and mortgage ("1975 Indenture") not to be qualified under the Act. Copies of the proposed 1975 Indenture will be filed by an amendment to the Applicant's Application promptly upon its availability.

(2) Applicant desires to appoint Bankers Trust Company, a New York Corporation, to act as trustee under the 1975 Indenture.

(3) Bankers Trust Company presently is acting as trustee under a trust agreement dated as of October 20, 1967 ("1967 Indenture"), under a trust agreement dated as of September 15, 1969 ("1969 Indenture"), under a trust indenture and mortgage dated as of June 1, 1970, as amended and supplemented ("1970 Indenture") and under a trust agreement dated as of November 15, 1971 ("1971 Indenture") relating to the financing of twenty-seven Boeing Model 727-223 aircraft, two Boeing Model 727-223 aircraft, seven Boeing Model 747-123 aircraft and two McDonnell Douglas DC-10 aircraft, respectively, leased to Applicant, which constitute four of Applicant's fourteen presently existing flight equipment lease transactions. 6½% Equipment Trust Loan Certificates were issued under the 1967 Indenture in the original principal amount of $114,371,636.03 of which $86,897,954.68 remain outstanding; final payment is due on January 1, 1987. 9½% Equipment Trust Loan Certificates were issued under the 1969 Indenture in the original principal amount of $9,079,642.40 of which $7,192,498.18 remain outstanding; final payment is due July 29, 1984. Guaranteed Loan Certificates, Series A, B, Interim C, Second Interim C and C, were issued under the 1970 Indenture and remain outstanding in the following respective principal amounts: $47,850,000 original principal amount of 11% Series A, due December 1, 1988, presently outstanding in the principal amount of $42,572,000; $31,800,000 original principal amount of 10⅞% Series B, due December 1, 1988, presently outstanding in the principal amount of $28,244,000; $15,564,000 original principal amount of 9½% Interim Series C, due June 1, 1989, none of which is presently outstanding; $15,689,000 original principal amount of 9½% Second Interim Series C, due June 1, 1989, none of which is presently outstanding; and $32,000,000 original principal amount of 10% Series C, due June 1, 1989, presently outstanding in the principal amount of $28,755,000. 9¼% Equipment Trust Loan Certificates were issued under the 1971 Indenture in the original principal amount of $19,513,754.67 of which $19,513,754.67 remain outstanding. Copies of the trust agreement, lease and other documents (combined as a single document) setting forth the terms and provisions governing the certificates issued under the 1967 Indenture were filed as Exhibit 2 to Applicant's Application dated March 3, 1970 under section 310(b)(1)(ii) of the Act in connection with Applicant's Registration Statement on Form S-7 under the Securities Act of 1933 (No. 2-37401) and are incorporated herein by reference. Copies of the trust agreement, lease and other documents (combined as a single document) setting forth the terms and provisions governing the certificates issued under the 1969 Indenture were filed as Exhibit 3 to such Application dated March 3, 1970 and are incorporated herein by reference. Copies of the trust indenture and mortgage, lease and other documents, as amended and supplemented, setting forth the terms and provisions governing the certificates issued under the 1970 Indenture were filed as exhibits to Applicant's Registration Statements under the Securities Act of 1933 (nos. 2-37401, 2-38352, and 2-39380) and are incorporated herein by reference. Copies of the trust agreement, lease and other documents (combined as a single document) setting forth the terms and provisions governing the certificates issued under the 1971 Indenture were filed as Exhibit A to the Applicant's Application dated March 25, 1975 under section 310(b)(1)(ii) and are incorporated herein by reference.

4) The certificates issued under the 1967 Indenture, the 1969 Indenture, the 1970 Indenture and the 1971 Indenture are, and the certificates to be issued under the 1975 Indenture will be, secured by a separate lot of identified aircraft, so that should the trustee have occasion to proceed against the security under one of these trusts, such action would not affect the security, or the use of any security, under any other trust. Thus, the existence of the other trusteeships should in no way inhibit or discourage the trustee's actions.

5) The Applicant is not in default under any of its equipment obligations.

The Applicant has waived notice of hearing, hearing on the issues raised by its application and all rights to specify procedures under Rule 8(b) of the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than May 6, 1975 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as to the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

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

[FR Doc.75-10318 Filed 4-18-75;8:45 am]

[Rel. No. 18931; 70-5662]

APPALACHIAN POWER CO.

Proposed Issue and Sale of First Mortgage Bonds

APRIL 14, 1975.

In the matter of Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009.

Notice is hereby given that Appalachian Power Company ("Appalachian") an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b) and 12(c) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Appalachian proposes to issue and sell $50,000,000 principal amount of its First Mortgage Bonds ("Bonds"), ——% Series. The terms of the Bonds preclude Appalachian from redeeming any such Bonds prior to May 1, 1980, if such redemption is for the purpose of refunding such Bonds with proceeds of funds borrowed at a lower effective interest cost. It is stated that there will be an optional redemption price for the Bonds, the amount of which will be determined by negotiation. The Bonds will mature not less than five years and not more than ten years from the date of issuance thereof. The Bonds will be issued under and secured by the Mortgage and Deed of Trust, dated as of December 1, 1940, to Bankers Trust Company ("Trustee"), and a new Supplemental Indenture thereto (the "Supplemental Indenture") which will be dated as of the first day of the month in which the Bonds are to be issued. Appalachian plans to sell its Bonds to one or more commercial banks, insurance companies, or similar institutions where there will be no resale to the public. No finder's fee or other fee, commission or remuneration will be paid to any third party in connection with the proposed transaction for negotiating the transaction.

In the event there are no commitments for negotiation, Appalachian will issue and sell the Bonds at competitive bidding. The interest rate (which will be a multiple of ⅛ of 1%) and the price (which will be not less than 100%, unless Appalachian shall authorize a lower percentage not less than 99%, and shall not exceed 102.75% of the principal amount thereof plus accrued interest from May 1, 1980, to the date of delivery) will be determined by competitive bidding.

The proceeds of the offering will be used to retire $50,000,000 principal amount of 9% Series Bonds, due June 1, 1975.

Appalachian states that if the Bonds are sold by negotiation the sale of the Bonds will be exempt from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(2) thereof as the Bonds will have a maturity of less than ten years, will be issued to an institutional investor, will not be resold to the public, and no finder's fee is to be paid to any third party in connection with the proposed transaction for negotiating the transaction.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the State Corporation Commission of Virginia and the Public Service Commission of Tennessee have jurisdiction over the proposed issuance and sale of the Bonds and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 7, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.75-10319 Filed 4-18-75;8:45 am]

[Rel. No. 18935; 70-5661]

COLUMBIA GAS SYSTEM, INC.

Proposed Issue and Sale of Preferred Stock at Competitive Bidding

APRIL 14, 1975.

In the matter of Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, Delaware 19807.

Notice is hereby given that The Columbia Gas System, Inc. ("Columbia"), a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

All external financing for the Columbia System is done at the parent company level, i.e., through the issue and sale of securities of Columbia. Columbia now proposes to issue and sell in May 1975, subject to the competitive bidding requirements of Rule 50 under the Act, 1,000,000 shares of ——% Cumulative Preferred Stock, Series B, par value $50 per share. Columbia states that due to difficulties that may occur in marketing preferred securities at competitive bidding, the company may request, by further amendment to this application-declaration, the sale of its preferred stock be excepted from the competitive bidding requirements of Rule 50.

The dividend rate (which shall be a multiple of 0.08%) and the price to the company (which shall be not less than $50 nor more than $51.50 per share) will be determined by the competitive bidding. The terms of the stock will provide that Columbia shall have the option to redeem shares of the stock, provided however, that no such optional redemption shall be made prior to June 1, 1980, directly or indirectly, with borrowed funds having a lower effective interest cost or from the issuance of another series of preferred stock having a lower effective dividend cost. A sinking fund

will be provided to redeem 100,000 shares of stock yearly beginning with the year 1981.

Columbia proposes to apply the net proceeds from the sale of the preferred stock together with other available funds to the 1975 capital expenditure program of its subsidiaries estimated to be $380 million. A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the transaction proposed herein.

Notice is further given that any interested person may, not later than May 9, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-10320 Filed 4-18-75;8:45 am]

[Rel. No. 18394; 70-5665]

NORTHEAST UTILITIES

Requested Exception From Competitive Bidding Requirements

In the matter of Northeast Utilities, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089.

Notice is hereby given that Northeast Utilities ("Northeast"), a registered holding company, has filed an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rules 50 and 100 promulgated thereunder as applicable to the terested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Northeast proposes to issue and sell 5,500,000 shares of its authorized but unissued common stock, par value $5 per share ("Common Stock"). Northeast estimates that the proposed sale of the Common Stock will provide it with aggregate cash proceeds of approximately $44,000,000. It proposes to utilize the net proceeds to repay, in part, its short-term notes payable. The company expects that, just prior to sale of the Common Stock, $139,800,000 of such notes will be outstanding, the proceeds of which had been used to make capital contributions and/or open account advances to its subsidiary companies pursuant to prior authorizations by the Commission. Northeast requests an exception from the competitive bidding requirements of Rule 50 under the Act for the issuance and sale of such Common Stock to permit it to select one or more investment banking firms to form a syndicate which will act as underwriters for the Common Stock and with which Northeast will negotiate the terms on which it will sell the Common Stock to such underwriters.

In support of its request for an exception, Northeast states that it has suffered severely from the effect of particularly difficult fuel supply problems in its service area, and from other exceptional factors. Its System has had difficulty over the past two years in financing its construction program through conventional long-term security issues, and two bond ratings for two of its subsidiaries have recently been reduced. Northeast believes it is important to sell the proposed common stock issue at this time. Based on its experience with its last common stock issue in October 1974, and its knowledge of current transfers in ownership of its common stock, Northeast states that it cannot expect significant institutional interest in the new issue, and that its sale will require a marketing effort directed primarily to individual investors.

It points out that over 25% of its earnings for common stock for 1974 represented the nonrecurring effect of changes in accounting methods, principally with respect to deferral of fuel costs and accrual of unbilled revenues. It also notes that the System has pending before the Connecticut Public Service Commission and this Commission, a contract for sale of its gas properties. It believes that these and other factors, described more fully in its application, affecting the investment characteristics of the stock to be offered, will require special attention by any prospective underwriters.

A statement of the fees and expenses to be incurred will be filed by amendment. It is stated that no state or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than May 7, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-10321 Filed 4-18-75;8:45 am]

[File No. 500-1]

STANDARD PRUDENTIAL CORP.

Suspension of Trading

APRIL 11, 1975.

The common stock of Standard Prudential Corp. being traded on the New York Stock Exchange and the warrants of Standard Prudential Corp. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Standard Prudential Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national

securities exchange is suspended, for the period from 12:01 a.m. (e.d.t.) on April 12, 1975 through midnight (e.d.t.) on April 14, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[F.R. Doc.75-10322 Filed 4-18-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 1128]

ILLINOIS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March, because of the effects of a certain disaster, damage resulted to property located in the State of Illinois;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended:

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Stephenson and Winnebago Counties and adjacent affected areas, suffered damage or destruction resulting from flooding which occurred on March 23–30, 1975. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines.

OFFICE

Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Illinois 60655.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to June 13, 1975. EIDL applications will not be accepted subsequent to January 14, 1976.

Dated: April 14, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-10341 Filed 4-18-75;8:45 am]

COLUMBIA DISTRICT ADVISORY COUNCIL

Meeting

The Small Business Administration Columbia District Advisory Council will meet at 9:30 a.m. (e.d.t.), Wednesday, May 21, 1975, at The Wade Hampton Hotel, 1201 Main Street, Columbia, South Carolina, 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 Vern F. Amick, Small Business Administration, 1801 Assembly Street, Columbia, South Carolina 29201, (803) 765-5373.

Dated: April 9, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy,
Small Business Administration.

[FR Doc.75-10324 Filed 4-18-75;8:45 am]

[Notice of Disaster Loan Area 1123; Amdt. 1]

KENTUCKY

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Kentucky as a major disaster area following severe storms and flooding beginning about March 10, 1975, applications for disaster relief loans will be accepted by the Small Business Administration from disaster victims in the following additional Counties: Ballard, Livingston and McCracken, and adjacent affected areas. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines. (See 40 FR 16256)

Applications may be filed at the:

Small Business Administration
District Office
Federal Office Building, Room 188
600 Federal Place
Louisville, Kentucky 40202

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than June 5, 1975. EIDL applications will not be accepted subsequent to January 5, 1976.

Dated: April 10, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-10326 Filed 4-18-75;8:45 am]

[Declaration of Disaster Loan Area 1127]

MISSISSIPPI

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March, because of the effects of a certain disaster, damage resulted to property located in the State of Mississippi;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended:

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Lowndes and Monroe Counties and adjacent affected areas, suffered damage or destruction resulting from flooding which occurred on March 16–17, 1975. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines.

Office: Small Business Administration, District Office, Petroleum Building, Room 690, 200 East Pascagoula, Jackson, Mississippi 39201.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to June 9, 1975. EIDL applications will not be accepted subsequent to June 12, 1976.

Dated: April 10, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-10327 Filed 4-18-75;8:45 am]

MONTPELIER DISTRICT ADVISORY COUNCIL

Meeting

The Small Business Administration Montpelier District Advisory Council will meet at 11 a.m., (e.d.t.), Wednesday, May 21, 1975, at the Charlmont Restaurant, Morrisville, Vermont, 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 David C. Emery, Small Business Administration, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602, (802) 223-8422.

Dated: April 9, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy,
Small Business Administration.

[FR Doc.75-10325 Filed 4-18-75;8:45 am]

[Notice of Disaster Loan Area 112; Amdt. 2]

TENNESSEE

Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of Tennessee as a major disaster area following flooding beginning on or about March 11–16, 1975, applications for disaster relief loans will be accepted by the Small Business Administration from disaster victims in the following additional Counties: Wayne and adjacent affected areas. Adjacent areas include only counties within the state for which the declaration is made and do not extend beyond state lines. (See 40 FR 16257)

Applications may be filed at the:

Small Business Administration
District Office
Parkway Towers, Room 1012
Nashville, Tennessee 37219

and at such temporary offices as are established. Such addresses will be announced locally.

Applications for disaster loans under this announcement must be filed not later than June 6, 1975. EIDL applications will not be accepted subsequent to January 7, 1976.

Dated: April 10, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-10328 Filed 4-18-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

STANDARDS COMPLETION PROJECT

Availability of Draft Technical Standards

On March 18, 1974, the Assistant Secretary of Labor for Occupational Safety and Health announced the joint OSHA/NIOSH Standards Completion Project. The purpose of the project is to issue completed standards for all of the toxic materials listed in Tables G-1, G-2, and G-3 of 29 CFR 1910.93, with the exception of some substances which are or will be the subjects of NIOSH Criteria Documents. These exceptions will be the subjects of separate rulemaking proceedings, outside of the Standards Completion Project.

Section 1910.93 lists exposure limits for certain hazardous or toxic substances. The new standards will establish requirements for monitoring employee exposure, medical surveillance, methods of compliance, handling and use of liquid forms of the substance, employee training, recordkeeping, and sanitation and housekeeping, among other things. In addition, the proposals are also designed to enable employers to better understand and comply with existing OSHA standards. The exposure limits listed in § 1910.93 are not at issue in the proposals, and no changes to these limits will be proposed or made in the standards issued as part of the Standards Completion Project.

Drafts of the technical content of proposed standards for the following substances, designated Set E, Standards Completion Project, have been prepared: Hydroquinone, n-Amyl Acetate, Isoamyl Alcohol, sec-Butyl Alcohol, Isobutyl Alcohol, tert-Butyl Alcohol, Isopropyl Acetate, Butyl Alcohol, Isopropyl Alcohol, Cyclohexanol, Methyl Alcohol, Diacetone Alcohol, Methyl Isobutyl Carbinol, Ethyl Acetate, Propyl Alcohol.

These draft technical standards reflect only the technical intent of NIOSH and OSHA and do not necessarily contain the specific language which will appear in the proposed standards. Copies of the draft technical standards on the above listed substances are available for inspection or for purchase, at the standard copying fee, at the Occupational Safety and Health Administration, U.S. Department of Labor, Room 260, 1726 M Street, N.W., Washington, D.C. 20210. Copies of the draft technical standards may also be inspected at any of the following OSHA Regional and Area Offices:

REGIONAL OFFICES

U.S. Department of Labor, Occupational Safety and Health Administration, 18 Oliver Street, Boston, Massachusetts 02110

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza), New York, New York 10036

U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building—Suite 15220, 3535 Market Street, Philadelphia, Pennsylvania 19104

U.S. Department of Labor, Occupational Safety and Health Administration, 230 Peachtree Street, N.E.—Suite 587, Atlanta, Georgia 30309

U.S. Department of Labor, Occupational Safety and Health Administration, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604

U.S. Department of Labor, Occupational Safety and Health Administration, 7th Floor—Texaco Building, 1512 Commerce Street, Dallas, Texas 75201

U.S. Department of Labor, Occupational Safety and Health Administration, 911 Walnut Street—Room 3000, Kansas City, Missouri 64106

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building—Room 15010, 1961 Stout Street, Denver, Colorado 80202

U.S. Department of Labor, Occupational Safety and Health Administration, 9470 Federal Building, 450 Golden Gate Avenue—Box 36017, San Francisco, California 94102

U.S. Department of Labor, Occupational Safety and Health Administration, 506 Second Avenue, 1808 Smith Tower Building, Seattle, Washington 98104

AREA OFFICES

U.S. Department of Labor, Occupational Safety and Health Administration, Custom House Building—Room 703, State Street, Boston, Massachusetts 02109

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building—Room 426, 55 Pleasant Street, Concord, New Hampshire 03301

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building—Room 617B, 450 Main Street, Hartford, Connecticut 06103

U.S. Department of Labor, Occupational Safety and Health Administration, U.S. Post Office and Courthouse Building, 436 Dwight Street—Room 501, Springfield, Massachusetts 01103

U.S. Department of Labor, Occupational Safety and Health Administration, 90 Church Street—Room 1405, New York, New York 10007

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, 970 Broad Street—Room 1435C, Newark, New Jersey 07102

U.S. Department of Labor, Occupational Safety and Health Administration, Room 203—Midtown Plaza, 700 East Water Street, Syracuse, New York 13210

U.S. Department of Labor, Occupational Safety and Health Administration, 370 Old Country Road, Garden City, Long Island, New York 11530

U.S. Department of Labor, Occupational Safety and Health Administration, Condominium San Alberto Building, 605 Condado Avenue—Room 328, Santurce, Puerto Rico 00907

U.S. Department of Labor, Occupational Safety and Health Administration, William J. Green, Jr. Federal Building, 600 Arch Street—Room 4456, Philadelphia, Pennsylvania 19106

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building—Room 1110-A, 31 Hopkins Plaza—Charles Center, Baltimore, Maryland 21201

U.S. Department of Labor, Occupational Safety and Health Administration, Charleston National Plaza—Suite 1726, 700 Virginia Street, Charleston, West Virginia 25301

U.S. Department of Labor, Occupational Safety and Health Administration, Room 802—Jonnet Building, 4099 William Penn Highway, Monroeville, Pennsylvania 15146

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building—Room 8015, 400 N. 8th Street—P.O. Box 10186, Richmond, Virginia 23240

U.S. Department of Labor, Occupational Safety and Health Administration, Building 10—Suite 33, La Vista Perimeter Park, Tucker, Georgia 30084

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building—Room 613-A, 310 New Bern Avenue, Raleigh, North Carolina 27601

U.S. Department of Labor, Occupational Safety and Health Administration, Room 204—Bridge Building, 3200 E. Oakland Park Boulevard, Fort Lauderdale, Florida 33308

U.S. Department of Labor, Occupational Safety and Health Administration, 1600 Hayes Street—Suite 302, Nashville, Tennessee 37203

U.S. Department of Labor, Occupational Safety and Health Administration, 2809 Art Museum Drive, Art Museum Plaza—Suite 4, Jacksonville, Florida 32207

U.S. Department of Labor, Occupational Safety and Health Administration, Todd Mall—2047 Canyon Road, Birmingham, Alabama 35216

U.S. Department of Labor, Occupational Safety and Health Administration, Suite 554-E—600 Federal Place, Louisville, Kentucky 40202

U.S. Department of Labor, Occupational Safety and Health Administration, Enterprise Building—Suite 204, 6605 Abercorn Street, Savannah, Georgia 31405

U.S. Department of Labor, Occupational Safety and Health Administration, Commerce Building—Room 600, 118 North Royal Street, Mobile, Alabama 36602

U.S. Department of Labor, Occupational Safety and Health Administration, Riverside Plaza Shopping Center, 2720 Riverside Drive, Macon, Georgia 31204

U.S. Department of Labor, Occupational Safety and Health Administration, 1710 Gervais Street—Room 205, Columbia, South Carolina 29201

U.S. Department of Labor, Occupational Safety and Health Administration, 650 Cleveland Street, Room 44, Clearwater, Florida 33515

U.S. Department of Labor, Occupational Safety and Health Administration, 57601—55 North Frontage Road East, Jackson, Mississippi 39211

U.S. Department of Labor, Occupational Safety and Health Administration, 230 South Dearborn Street, 10th Floor, Chicago, Illinois 60604

U.S. Department of Labor, Occupational Safety and Health Administration, 847 Federal Office Building, 1240 East Ninth Street, Cleveland, Ohio 44199

U.S. Department of Labor, Occupational Safety and Health Administration, 360 S. Third Street—Room 109, Columbus, Ohio 43215

U.S. Department of Labor, Occupational Safety and Health Administration, Michigan Theatre Building—Room 626, 200 Bagley Avenue, Detroit, Michigan 48226

U.S. Department of Labor, Occupational Safety and Health Administration, 110 South Fourth Street—Room 437, Minneapolis, Minnesota 55401

U.S. Department of Labor, Occupational Safety and Health Administration, Clark Building—Room 400, 633 West Wisconsin Avenue, Milwaukee, Wisconsin 53203

U.S. Department of Labor, Occupational Safety and Health Administration, U.S. Post Office and Courthouse, Room 423, 46 East Ohio Street, Indianapolis, Indiana 46202

U.S. Department of Labor, Occupational Safety and Health Administration, Room 4028—Federal Office Building, 550 Main Street, Cincinnati, Ohio 45202

U.S. Department of Labor, Occupational Safety and Health Administration, Room 734—Federal Office Building, 234 N. Summit Street, Toledo, Ohio 43604

U.S. Department of Labor, Occupational Safety and Health Administration, Room 2118, 2320 La Branch Street, Houston, Texas 77004

U.S. Department of Labor, Occupational Safety and Health Administration, Adolphus Tower—Suite 1820, 1412 Main Street, Dallas, Texas 75202

U.S. Department of Labor, Occupational Safety and Health Administration, Room 421—Federal Building, 1205 Texas Avenue, Lubbock, Texas 79401

U.S. Department of Labor, Occupational Safety and Health Administration, 546 Carondelet Street—Room 202, New Orleans, Louisiana 70130

U.S. Department of Labor, Occupational Safety and Health Administration, Room 512—Petroleum Building, 420 South Boulder, Tulsa, Oklahoma 74103

U.S. Department of Labor, Occupational Safety and Health Administration, Room 526—Donaghey Building, 103 East 7th Street, Little Rock, Arkansas 72201

U.S. Department of Labor, Occupational Safety and Health Administration, 1015 Jackson Keller Road—Room 122, San Antonio, Texas 78213

U.S. Department of Labor, Occupational Safety and Health Administration, Room 3114—Federal Building, 500 Gold Avenue, S.W., P.O. Box 1428, Albuquerque, New Mexico 87103

U.S. Department of Labor, Occupational Safety and Health Administration, 1627 Main Street—Room 1100, Kansas City, Missouri 64108

U.S. Department of Labor, Occupational Safety and Health Administration, 210 North 12th Boulevard—Room 554, St. Louis, Missouri 63101

U.S. Department of Labor, Occupational Safety and Health Administration, Petroleum Building, 221 South Broadway Street—Suite 312, Wichita, Kansas 67202

U.S. Department of Labor, Occupational Safety and Health Administration, Room 643—210 Walnut Street, Des Moines, Iowa 50309

U.S. Department of Labor, Occupational Safety and Health Administration, City National Bank Building, Harney and 16th Street—Room 803, Omaha, Nebraska 68102

U.S. Department of Labor, Occupational Safety and Health Administration, 113 West 6th Street, North Platte, Nebraska 69101

U.S. Department of Labor, Occupational Safety and Health Administration, 8527 W. Colfax Avenue, Lakewood, Colorado 80215

U.S. Department of Labor, Occupational Safety and Health Administration, Suite 525—Petroleum Building, 2812 1st Avenue—North, Billings, Montana 59101

U.S. Department of Labor, Occupational Safety and Health Administration, Court House Plaza Building—Room 408, 300 North Dakota Avenue, Sioux Falls, South Dakota 57102

U.S. Department of Labor, Occupational Safety and Health Administration, U.S. Post Office Building—Room 452, 350 South Main Street, Salt Lake City, Utah 84111

U.S. Department of Labor, Occupational Safety and Health Administration, 100 McAllister Street—Room 1706, San Francisco, California 94102

U.S. Department of Labor, Occupational Safety and Health Administration, Suite 318—Amerco Towers, 2721 North Central Avenue, Phoenix, Arizona 85004

U.S. Department of Labor, Occupational Safety and Health Administration, 333 Queen Street—Suite 505, Honolulu, Hawaii 96813

U.S. Department of Labor, Occupational Safety and Health Administration, 1100 E. William Street, Suite 222, Carson City, Nevada 89701

U.S. Department of Labor, Occupational Safetay and Health Administration, Hartwell Building—Room 401, 19 Pine Avenue, Long Beach, California 90802

U.S. Department of Labor, Occupational Safety and Health Administration, 121—107th Street, N.E., Bellevue, Washington 98004

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building—Room 227, 605 West 4th Avenue, Anchorage, Alaska 99501

U.S. Department of Labor, Occupational Safety and Health Administration, Room 526—Pittock Block, 921 S.W. Washington Street, Portland, Oregon 97205

U.S. Department of Labor, Occupational Safety and Health Administration, 228 Idaho Building, 216 North 8th Street, Boise, Idaho 83702

The draft technical standards will also be available for inspection at the national and regional offices of the U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, at the following addresses:

U.S. Department of HEW, National Institute for Occupational Safety and Health, Room 3-50, 5600 Fishers Lane, Park Building, Rockville, Maryland 20852

U.S. Department of HEW, National Institute for Occupational Safety and Health, 1114 Commerce Street, Room 1612, Dallas, Texas 75202

U.S. Department of HEW, National Institute for Occupational Safety and Health, 3535 Market Street, Philadelphia, Pennsylvania 19101

U.S. Department of HEW, National Institute for Occupational Safety and Health, 9017 Federal Building, 19th and Stout Streets, Denver, Colorado 80202

U.S. Department of HEW, National Institute for Occupational Safety and Health, 50 Seventh Street, N.E., Atlanta, Georgia 30323

U.S. Department of HEW, National Institute for Occupational Safety and Health, Arcade Building, 1321 Second Street, Seattle, Washington 98101

U.S. Department of HEW, National Institute for Occupational Safety and Health, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203

U.S. Department of HEW, National Institute for Occupational Safety and Health, 26 Federal Plaza, New York, New York 10007

U.S. Department of HEW, National Institute for Occupational Safety and Health, 601 East 12th Street, Kansas City, Missouri 64106

U.S. Department of HEW, National Institute for Occupational Safety and Health, 223 Federal Office Building, 50 Fulton Street, San Francisco, California 94102

U.S. Department of HEW, National Institute for Occupational Safety and Health, 300 South Wacker Drive, Chicago, Illinois 60607

It is anticipated that standards for the above listed substances will be proposed by OSHA in the near future. At that time, a formal comment period will be provided for the proposals. However, interested persons wishing to submit written data, views and arguments on the draft technical standards at this time may submit them to the Docket Officer, Standards Completion Project,

Occupational Safety and Health Administration, U.S. Department of Labor, Docket H104, Room 260, 1726 M Street NW., Washington, D.C. 20210. The communications will be available for public inspection and copying at the above location. Information submitted in response to the Notice of Intent to Prepare An Environmental Impact Statement, published in the FEDERAL REGISTER on September 20, 1974 (39 FR 33843), need not be resubmitted.

Signed at Washington, D.C. this 10th day of April 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-10345 Filed 4-18-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications

APRIL 14, 1975.

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 May 21, 1975. (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 rebuttal statements will be accepted.

No. MC 1977 (Sub-No. 22G), filed June 4, 1974. Applicant: NORTHWEST TRANSPORT SERVICE, INC. (operator of Salt Lake Transfer Company (portion)), 5231 Monroe Street, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Explosives*, between points in New Mexico, on the one hand, and, on the other, points in Montana, Idaho, Arizona, Wyoming and Nevada (except Nye, Esmeralda and Mineral Counties, Nev.). The purpose of this filing is to eliminate the gateway of Utah.

(2) *General commodities* (except household goods and commodities which because of size or weight require special equipment), between points within a 50-mile radius of Salt Lake City, Utah, on the one hand, and, on the other, Pocatello, Blackfoot, Idaho Falls, and Boise, Idaho. The purpose of this filing is to eliminate the gateway of Salt Lake City, Utah.

No. MC 2900 (Sub-No. 262G), filed June 4, 1974. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., Jacksonville, Fla. 32209. Applicant's representative: S. E. Sommers (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) from Cleveland, Ohio, and points in Ohio, and points in Ohio within 50 miles of Cleveland, to points in that part of Pennsylvania bounded by a line beginning at the Ohio-Pennsylvania State line, thence eastward over Pennsylvania Highway 358 to Greenville, thence over Pennsylvania Highway 58 to Mercer, thence westward over U.S. Highway 62 to the Ohio-Pennsylvania State line, thence northward along said line to the point of beginning. The purpose of this filing is to eliminate the gateway at New Castle, Pa.

(2) From Cleveland, Ohio, and points in Ohio within 50 miles of Cleveland, to points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J. The purpose of this filing is to eliminate the gateway at Doylestown (Bucks County), or Easton (Northampton County), Pa.

(3) From Cleveland, Ohio and points in Ohio with 50 miles of Cleveland, to points in North Carolina. The purpose of this filing is to eliminate the gateway at Philadelphia, Pa.

(4) From Cleveland, Ohio and points in Ohio within 50 miles of Cleveland, to Charleston, S.C. The purpose of this filing is to eliminate the gateways at Philadelphia, Pa. and Charlotte, N.C.

(5) From Cleveland, Ohio and points in Ohio within 50 miles of Cleveland, to Greenville, S.C. and points within 25 miles thereof. The purpose of this filing is to eliminate the gateways at Philadelphia, Pa. and Tryon, N.C.

(6) From Cleveland, Ohio and points in Ohio within 50 miles of Cleveland, to points in New Jersey within 25 miles of City Hall in Philadelphia, Pa. The purpose of this filing is to eliminate the gateway at Philadelphia, Pa.

(7) From Cleveland, Ohio and points in Ohio within 50 miles of Cleveland, to points in Jefferson, Lewis, Oneida, Oswego, and St. Lawrence Counties, N.Y. The purpose of this filing is to eliminate the gateways at Easton (Northampton County), Pa. and New York City, N.Y. and Watertown (Jefferson County), N.Y.

(8) From points in Nassau, Westchester, Orange, and Rockland Counties, N.Y., and those in Pike, Northampton, Bucks, Lehigh, Berks, Monroe, and Montgomery Counties, Pa., to points in North Carolina. The purpose of this filing is to eliminate the gateway at New York, N.Y.

(9) From points in Nassau, Westchester, Orange, and Rockland Counties, N.Y., and those in Pike, Northampton, Bucks, Lehigh, Berks, Monroe, and Montgomery Counties, Pa., to Charleston, S.C. The purpose of this filing is to eliminate the gateway at New York, N.Y. and Charlotte, N.C.

(10) From points in Nassau, Westchester, Orange, and Rockland Counties, N.Y., and those in Pike, Northampton, Bucks, Lehigh, Berks, Monroe, and Montgomery Counties, Pa., to points in Greenville, S.C., and points within 25 miles thereof. The purpose of this filing is to eliminate the gateway at New York, N.Y. and Tryon, N.C.

(11) From points in Nassau, Westchester, Orange, and Rockland Counties, N.Y., and those in Pike, Northampton, Bucks, Lehigh, Berks, Monroe, and Montgomery Counties, Pa., to points in Greenson, Lewis, Oneida, Oswego, and St. Lawrence Counties, N.Y. The purpose of this filing is to eliminate the gateways at New York, N.Y., and Watertown (Jefferson County), N.Y.

(12) From New York, N.Y., Philadelphia, Pa., Jersey City, N.J., and Baltimore, Md., to Charleston, S.C. The purpose of this filing is to eliminate the gateway at Charlotte, N.C.

(13) From New York, N.Y., Philadelphia, Pa., Jersey City, N.J. and Baltimore, Md., to Greenville, S.C. and points within 25 miles thereof. The purpose of this filing is to eliminate the gateway at Tryon, N.C.

(14) From New York, N.Y., and points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J., to points in North Carolina. The purpose of this filing is to eliminate the gateway at Philadelphia, Pa.

(15) From New York, N.Y., and points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren Middlesex, Monmouth, and Mercer Counties, N.J., to Charleston, S.C. The purpose of this filing is to eliminate the gateway at Philadelphia, Pa., and Charlotte, N.C.

(16) From New York, N.Y., and points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J., to Greenville, S.C., and points within 25 miles thereof. The purpose of this filing is to eliminate the gateway at Philadelphia, Pa., and Tryon, N.C.

(17) From New York, N.Y., and points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren Middlesex Monmouth, and Mercer Counties, N.J., to points in Pennsylvania and New Jersey within 20 miles of City Hall in Philadelphia. The purpose of this filing is to eliminate the gateway at Philadelphia, Pa.

(18) From New York, N.Y., and points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J., to points in Jefferson, Lewis, Oneida, Oswego, and St. Lawrence Counties, N.Y. The purpose of this filing is to eliminate the gateways at New York,

N.Y., and Watertown (Jefferson County), N.Y.

(19) Between Albany, N.Y., on the one hand, and, on the other, points in Oneida, Oswego, Clinton, Essex and Franklin Counties, N.Y. The purpose of this filing is to eliminate the gateway at Watertown (Jefferson County), N.Y.

(20) Between points in St. Lawrence County, N.Y., on the one hand, and, on the other, points in Lewis, Oneida, and Oswego Counties, N.Y. The purpose of this filing is to eliminate the gateway at Watertown (Jefferson County), N.Y.

(21) From New Castle, Pa., to points in Ohio east of Ohio Highway 13 and north of Ohio Highway 39, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway at Portersville, Pa. and (B) *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and nursery stock, seeds, bulbs, plants and accessories and supplies used or useful in the planting or exhibition of such plants), (1) from points in Pennsylvania and New Jersey within 20 miles of City Hall in Philadelphia, to New York, N.Y., and points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J. The purpose of this filing is to eliminate the gateway at Philadelphia (Bucks County), Pa.

(2) From points in Pennsylvania and New Jersey within 20 miles of City Hall in Philadelphia, to points in Jefferson, Lewis, Oneida, Oswego, and St. Lawrence Counties, N.Y. The purpose of this filing is to eliminate the gateway at New York, N.Y., and Watertown (Jefferson County), N.Y.

(3) From points in Pennsylvania and New Jersey within 20 miles of City Hall in Philadelphia, to points in North Carolina. The purpose of this filing is to eliminate the gateway at Philadelphia, Pa.

(4) From points in Pennsylvania and New Jersey within 20 miles of City Hall in Philadelphia, to Charleston, S.C. The purpose of this filing is to eliminate the gateways at Philadelphia, Pa., and Charlotte, N.C.

(5) From points in Pennsylvania and New Jersey within 20 miles of City Hall in Philadelphia, to Greenville, S.C., and points within 25 miles thereof. The purpose of this filing is to eliminate the gateways at Philadelphia, Pa., and Tryon, N.C.

No. MC 30844 (Sub-No. 511G), filed June 10, 1974. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial St., Waterloo, Iowa 50702. Applicant's representative: Paul Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prepared food products*, (a) from points in New York, to points in Arkansas, Colorado, Kansas, Missouri, Nebraska, Iowa, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways at Pittsburgh, Pa., and Keokuk, Iowa; (b) from points in New York, to points in Minnesota. The purpose of this filing is to eliminate the gateway at Pittsburgh, Pa., and Des Moines, Iowa.

(2) *Canned goods*, from the Lower Peninsula of Michigan, to points in Colorado, Nebraska, Kansas, Oklahoma, Texas, Missouri, and Arkansas. The purpose of this filing is to eliminate the gateway at Ottumwa, Iowa.

(3) *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I in the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from Denver, Colo., to Chicago, Ill. and St. Louis, Mo. and their respective commercial zones. The purpose of this filing is to eliminate the gateway at Waterloo, Iowa.

(4) *Candy, confectionery, and confectionery products* (except commodities in bulk, in tank vehicles), from Duryea, Pa. to points in that part of Missouri on and east of U.S. Highway 65, and those in that part of Arkansas on and east of Arkansas Highway 7. The purpose of this filing is to eliminate the gateway of Keokuk, Iowa.

(5) *Prepared frozen foods*, from points in Missouri east of U.S. Highway 65, points in Texas east of Interstate Highway 80, and points in Arkansas (except Russellville), to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway at Des Moines, Iowa.

(6) *Canned goods*, from Pittsburgh, Pa., to points in Missouri, Arkansas, Texas, Oklahoma, Kansas, and Colorado. The purpose of this filing is to eliminate the gateways at points in Iowa. Restriction: The requested authority in (1) through (6) above is restricted against the transporation of commodities in bulk and hides.

No. MC 40978 (Sub-No. 22G), filed June 4, 1974. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a corporation, 3321 Business 141 South, Sheboygan, Wis. 53081. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, including but not limited to household furnishings, office furniture, dental furnitre and eqipment and store fixtures, from Chicago, Ill. and points in Illinois within 100 miles of Chicago, Ill., to points in the Upper Peninsula of Michigan and points in Minnesota. The purpose of this filing is to eliminate the gateways of Sheboygan Falls and Janesville, Wis.

(2) *New furniture*, uncrated, from points in the Chicago, Ill. Commercial Zone, to points in the Upper Peninsula of Michigan and points in Minnesota. The purpose of this filing is to eliminate the gateways of Sheboygan Falls and Janesville, Wis.

(3) (a) *New box springs, new mattresses, new bed frames, new hide-a-beds, and new hospital beds* and (b) *new furniture and furniture parts*, from Munster, Ind., to points in Minnesota and points in Wisconsin except points in Wisconsin bounded by a line beginning at the Illinois-Wisconsin State line and extending in a northerly direction along U.S. Highway 51 to Junction U.S. Highway 14, thence along U.S. Highway 14 to Junction U.S. Highway 151, thence in a northeasterly direction along U.S. Highway 151 to Junction Wisconsin Highway 23, thence in an easterly direction along Wisconsin Highway 23 to Lake Michigan and extending all points on said boundary lines and their respective Commercial Zones. The purpose of this filing is to eliminate the gateways of Janesville and Kenosha, Wis.

(4) *New institutional, new household, and new office fixtures and equipment*, uncrated, from points in Wisconsin, to points in Iowa, Illinois, Indiana, Michigan, Ohio, Kentucky, and Missouri. The purpose of this filing is to eliminate the gateway of Sheboygan Falls, Wis.

(5) *New furniture*, from points in Wisconsin, to points in Iowa, Illinois, Indiana, Michigan, Ohio, Kentucky, and Missouri. The purpose of this filing is to eliminate the gateway of Sheboygan Falls, Wis.

(6) *New furniture and furniture parts*, from Burlington, Iowa, and the plants and storage facilities of the Brammer Manufacturing Company at Davenport, Iowa, to points in the Upper Peninsula of Michigan and points in Minnesota. The purpose of this filing is to eliminate the gateways of Sheboygan Falls and Prairie du Chien, Wis.

(7) *New furniture*, from Sturgis, Mich., to points in the Upper Peninsula of Michigan and points in Minnesota. The purpose of this filing is to eliminate the gateways of Sheboygan Falls and Beloit, Wis.

(8) *New furniture*, from Muscatine, Iowa, to points in Minnesota and points in the Upper Peninsula of Michigan. The purpose of this filing is to eliminate the gateways of Prairie du Chien and Sheboygan Falls, Wis.

No. MC 57591 (Sub-No. 17G), filed June 4, 1974. Applicant: EVANS DELIVERY COMPANY, INC., P.O. Box 268, Pottsville, Pa. 17901. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, commodities requiring mechanical refrigeration, and those injurious or contaminating to other lading), between Philadelphia, Pa., on the one hand, and, on the other, points in Pennsylvania within 50 miles of Pottsville (except Schuylkill, Columbia, Montour, Northumberland, Dauphin (except points south of Route 325 extending from the Dauphin-Schuylkill County line to the Susquehanna River),

and points in Luzerne County on south and east of U.S. Route 11 beginning at the Columbia-Luzerne County line extending east of the Nanticoke bypass entrance to Interstate 81, over the Nanticoke bypass to Interstate 81, thence over Interstate 81 to its junction with Pennsylvania Route 309, thence to junction of Pennsylvania Route 309, over Pennsylvania Route 309 to its junction with Pennsylvania Route 437, thence over Pennsylvania Route 437 to its junction with Pennsylvania Route 940 at White Haven, thence over an unnumbered highway to the Carbon-Luzerne County line near Eckley, Pa.). The purpose of this filing is to eliminate the gateway of Pottsville, Pa.

(2) *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Philadelphia, Pa., and points in Warren, Sussex, Morris and Somerset Counties, N.J., on the one hand, and, on the other, Easton, Bethlehem, Allentown, Catasauqua, Northhampton, Slatington, Emmaus, Weisport, Walnut Port and Lehigh Gap, Pa. The purpose of this filing is to eliminate the gateway of Easton, Pa.

MC 64112 (Sub-No. 54G), filed June 3, 1974. Applicant: NORTHEASTERN TRUCKING COMPANY, 2508 Starita Road, P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General Commodities* (except those of unusual value, and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (a) between Atlanta, Augusta, Columbus and Savannah, Ga., and points in North Carolina and South Carolina, on the one hand, and, on the other, points in that part of Connecticut south of a line extending from New Haven, Conn., in a northwesterly direction through Ansonia, Sandy Hook, and Brookfield, Conn., to the Connecticut-New York State line; points in that part of New York south of U.S. Highway 202 and west of New York Highway 112 extending between Patchogue, and Port Jefferson, Long Island, N.Y.; Bridgeton, N.J., and points in that part of New Jersey bounded by a line beginning at the New Jersey-New York State line and extending along U.S. Highway 202 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction U.S. Highway 206, thence along U.S. Highway 206 to Trenton, N.J., thence along the east bank of the Delaware River to Penns Grove, N.J., thence along U.S. Highway 130 to junction New Jersey Highway 44, thence along New Jersey Highway 44 to Paulsboro, N.J., thence in an easterly direction through Mt. Holly, and Freehold, N.J. to the Atlantic Ocean, thence along the east bay and river shores of New Jersey to the New Jersey-New York State line, and thence along the New Jersey-New York State line to point of beginning.

Points in Pennsylvania on and east of a line extending from the Maryland-Pennsylvania State line along U.S. Highday 111 to York, Pa., and on and south of a line extending from York, along U.S. Highway 30 to junction U.S. Highway 202, and thence along U.S. Highway 202 through New Hope, Pa. to the Pennsylvania-New Jersey State line; Baltimore, Maryland; points in Virginia on and east of U.S. Highway 15, except those in Accomack and Northampton Counties, Va.; including points in the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of Philadalphia, Pa.; Central portion of North Carolina; points within 25 miles of Concord, N.C.; Eastern two-thirds portion of North Carolina; points in N.C. and S.C. within 50 miles of Fairmont, N.C.; points in Chesterfield, Darlington, Dillon and Marlboro Counties, S.C.; points in Sumter County, S.C. and Savannah, Ga. Commercial Zone.

(2) *General Commodities* (except those of unusual value, and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in that part of North Carolina west of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 29 to junction U.S. Highway 158 at or near Reidsville, N.C., thence along U.S. Highway 158 to Mocksville, N.C., thence along U.S. Highway 64 to junction U.S. Highway 21 at or near Statesville, N.C., thence along U.S. Highway 21 to Charlotte, N.C., thence along U.S. Highway 29 to the North Carolina-South Carolina State line, on the one hand, and, on the other, points in that part of North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 29 to junction U.S. Highway 158 at or near Reidsville, N.C., thence along U.S. Highway 158 to Mocksville, N.C., thence along U.S. Highway 64 to junction U.S. Highway 21 at or near Statesville, N.C., thence along U.S. Highway 21 to Charlotte, N.C., thence along U.S. Highway 29 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateways of the eastern two-thirds portion of North Carolina and points within 25 miles of Concord, N.C.

(3) *General Commodities* (except those of unusual value, and except Class A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in North Carolina on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways at points in Chesterfield, Darlington, Dillon, and Marlboro Counties, S.C.; points in North Carolina and South Carolina within 50 miles of Fairmont, N.C.; eastern two-thirds portion of North Carolina; and points within 25 miles of Concord, N.C.

(4) *General Commodities* (except those of unusual value, and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Atlanta, Augusta and Columbus, Ga., on the one hand, and, on the other, points in North Carolina, and points and places in Chesterfield, Darlington, Dillon, Marion and Marlboro Counties, South Carolina, and those points in Florence and Horry Counties, South Carolina located within 50 miles of Fairmont, N.C. The purpose of this filing is to eliminate the gateways at points in Sumter, S.C.; points in Chesterfield, Darlington, Dillon and Marlboro Counties, S.C.; points in North Carolina and South Carolina within 50 miles of Fairmont, N.C.; eastern two-thirds portion of North Carolina; and points within 25 miles of Concord, N.C.

(5) *General Commodities* (except those of unusual value, and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points and places in Georgia within 15 miles of Savannah, Ga., including Savannah, on the one hand, and, on the other, points in North Carolina, and points and places in Chesterfield, Darlington, Dillon, Marion and Marlboro Counties, South Carolina, and those points in Florence and Horry Counties, South Carolina located within 50 miles of Fairmont, N.C. The purpose of this filing is to eliminate the gateways at Savannah, Ga. Commercial Zone; points in Chesterfield, Darlington, Dillon, and Marlboro Counties, S.C.; points in North Carolina and South Carolina within 50 miles of Fairmont, N.C.; Eastern two-third portion of North Carolina and points within 25 miles of Concord, N.C.

(B)–(6) *Petroleum and Petroleum Products*, in containers from the plant site and storage facilities of Exxon Corporation at Baton Rouge, La. to points in Virginia on and east of U.S. Highway 14, except points in Accomac and Northampton Counties, Va.; Baltimore, Maryland; points in Pennsylvania on and east of a line extending from the Maryland-Pennsylvania State line along U.S. Highway 111 to York, Pa., and on and south of a line extending from York, along U.S. Highway 30 to junction U.S. Highway 202, and thence along U.S. Highway 202 through New Hope, Pa. to the Pennsylvania-New Jersey State line; Bridgeton, New Jersey, and points in that part of New Jersey bounded by a line beginning at the New Jersey-New York State line and extending along U.S. Highway 202 to junction U.S. Highway 46.

Thence along U.S. Highway 46 to Trenton, N.J., thence along the east bank of the Delaware River to Penns Grove, N.J., thence along U.S. Highway 130 to junction New Jersey Highway 44, thence along New Jersey Highway 44 to Paulsboro, N.J., thence in an easterly direction through Mt. Holly, and Freehold, N.J. to the Atlantic Ocean, thence along the east bay and river shores of New Jersey to the New Jersey-New York State line, and thence along the New Jersey-New York State line to point of beginning, including points on the indicated portions of the highways specified; points in that part of New York south of U.S. Highway 202 and west of New York Highway 112 extending between Patchoque, and Port Jefferson, Long Island, N.Y.; points in that part of Connecticut south of a line extending from New Haven, Conn., in a northwesterly direction through Ansonia, Sandy Hook, and Brookfield, Conn., to the Connecticut-New York State line; points in South Carolina; and Savannah, Georgia and points and places in Georgia within 15 miles of Savannah. The purpose of this filing is to eliminate the gateways at points in North Carolina; points in the central portion of North Carolina; Philadelphia, Pa.; points in North Carolina and South Carolina within 50 miles of Fairmont, N.C.; points in Chesterfield, Darlington, Dillon and Marlboro Counties, S.C. and Savannah, Ga. Commercial Zone.

No. MC 93003 (Sub-No. 55G), filed June 4, 1974. Applicant: CARROLL TRUCKING COMPANY, 3203 U.S. Route 60-East, Huntington, W. Va. 25703. Applicant's representative: John P. McMahon, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Reinforcement steel, steel rails, railway track materials* and *fittings and bolts* from points in Kentucky to points in Ohio. The purpose of this filing is to eliminate the gateway of Huntington, W. Va.

(2) *Reinforcement steel, steel rails, railway track materials* and *fittings, structural steel, including fittings, and bolts* from all points in West Virginia to points in Ohio. The purpose of this filing is to eliminate the gateway of Huntington, W. Va.

(3) *Reinforcement steel, steel rails, railway track materials* and *fittings, structural steel,* including fittings and bolts from all points in Ohio and West Virginia and Kentucky to all points in Tennessee. The purpose of this filing is to eliminate the gateway of Huntington, W. Va.

(4) *Reinforcement steel, steel rails, railway track materials and fittings, structural steel, including fittings and bolts* from all points in Ohio, Kentucky and West Virginia to all points in Virginia. The purpose of this filing is to eliminate the gateway of Huntington, W. Va.

(5) *Reinforcement steel, steel rails, railway track materials and fittings structural steel, including fittings and bolts* from all points in Ohio, Kentucky and West Virginia to all points in Pennsylvania on and west of U.S. Highway 219. The purpose of this filing is to eliminate the gateway of Huntington, W. Va.

(6) *Corrugated iron and steel pipe, including fittings* therefor which by reason of size or weight require the use of special equipment, between all points in Ohio south of U.S. Highway 40 and that part of Kentucky on and east of a line beginning at the Kentucky-Ohio State line and extending along the U.S. Highway 25 to the junction U.S. Highway 25–W, thence along U.S. Highway 25–W to the Kentucky-Tennessee State line, on the one hand, and, on the other, points in West Virginia and those in Virginia on and west of U.S. Highway 220, and those in Tennessee on and east of U.S. Highway 27. The purpose of this filing is to eliminate the gateway of Ashland, Kentucky.

(7) *Corrugated iron and steel pipe, including fittings* therefor which by reason of size or weight require the use of special equipment from points in West Virginia and those in Virginia on and West of U.S. Highway 220 and those in Tennessee on and east of U.S. Highway 27 and on and north of U.S. Highway 70, to points in Ohio, Kentucky, Arkansas, Oklahoma, Missouri (except St. Louis, Mo., and points in Missouri within the St. Louis commercial zone as defined by the Commission), Iowa, Kansas, South Dakota, and Wisconsin. The purpose of this filing is to eliminate the gateway of Ashland, Kentucky.

(8) *Iron and steel and iron and steel articles* which by reason of size or weight require the use of special equipment, from all points in West Virgina, that part of Ohio south of U.S. Highway 40 and that part of Kentucky on and east of a line beginning at the Kentucky-Ohio State line and extending along U.S. Highway 25 to junction U.S. Highway 25–W and thence along U.S. Highway 25–W to the Kentucky-Tennessee State line, to points in Arkansas, Oklahoma, and Missouri (except St. Louis, Mo., and points in Missouri within the St. Louis commercial zone as defined by the Commission), Iowa, Kansas, South Dakota, Wisconsin. The purpose of this filing is to eliminate the gateway of Huntington, W. Va., and Cabell and Wayne Counties, W. Va.

No. MC 103993 (Sub-No. 815G), filed June 5, 1974. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Frank A. Antonovitz (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and *equipment and materials* incidental to the erection and completion of such buildings when shipped therewith, and *rejected shipments* of such commodities and equipment incidental to the handling of such commodities, from points in Illinois, to points in Colorado. The purpose of this filing is to eliminate the gateway of Monticello, Iowa.

No. MC 103993 (Sub-No. 818G), filed June 5, 1974. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Frank A. Antonovitz (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and *equipment and materials* incidental to the erection and completion of such buildings when shipped therewith, and *rejected shipments* of such commodities and equipment incidental to the handling of such commodities, from points in Indiana, to points in North Carolina, South Carolina, and Virginia. The purpose of this filing is to eliminate the gateway of Parkersburg, W. Va.

No. MC 107515 (Sub-No. 914G), filed June 4, 1974. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Rd., N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from points in Florida, to points in Kentucky, Illinois, Indiana, Michigan, Wisconsin, Iowa, Minnesota, Nebraska, Arkansas, Missouri, Oklahoma, Texas, North Carolina, South Carolina, Virginia, Alabama, Mississippi, Tennessee, West Virginia, Ohio, New Jersey, Maryland, Delaware, Connecticut, Rhode Island, and the District of Columbia. The purpose of this filing is to eliminate the gateways of Gainesville, Ga. or Tifton, Ga., or New Orleans, La.

No. MC 109637 (Sub-No. 394G), filed June 4, 1974 Applicant: SOUTHERN TANK LINES, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in bulk, in tank vehicles, from Louisville, Ky., to points in Indiana north of U.S. Highway 40. The purpose of this filing is to eliminate the gateways of Madison, Ind. and Lebanon, Ohio.

(2) *Petro-chemicals*, in bulk, in tank vehicles, from Madison, Ind., to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Robertson County, Tenn.

No. MC 111823 (Sub-No. 17G), filed June 4, 1974. Applicant: SHERWOOD VAN LINES, INC., 4322 Milling Rd., San Antonio, Tex. 78219. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. 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 Alabama, Arkansas, Colorado,

Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin and the District of Columbia; and (2) between the points named in (1) above, on the one hand, and, on the other, points in Arizona, California, and New Mexico. The purpose of this filing is to eliminate the gateways at St. Louis, Mo., Louisville, Ky., and San Angelo, Tex.

No. MC 112582 (Sub-No. 44G), filed June 4, 1974. Applicant: T. M. ZIMMERMAN COMPANY, a corporation, Rural Delivery No. 2, P.O. Box 380, Chambersburg, Pa. 17201. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen berries*, from Lawrence, Mass., to points in Delaware and Maryland. The purpose of this filing is to eliminate the gateway of Chambersburg, Pa.

(2) *Frozen foods*, in mechanically refrigerated equipment, from points in Pennsylvania within 25 miles of Chambersburg, Pa., to points in Maryland, Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Chambersburg, Pa.

(3) *Frozen meat and frozen fish* (including frozen shellfish), when transported in the same vehicle with meat products, in mechanically refrigerated equipment, (a) from Boston, Mass., to points in Delaware and Maryland. The purpose of this filing is to eliminate the gateways of Allentown or Chambersburg, Pa.; (b) from Boston, Mass., to points in New Jersey. The purpose of this filing is to eliminate the gateway of Allentown, Pa.

(4) *Frozen blueberries*, from points in Maine (except points in Aroostook County, Maine), to points in Delaware and Maryland. The purpose of this filing is to eliminate the gateway of Chambersburg, Pa.

No. MC 113843 (Sub-No. 204G), filed June 4, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: William J. Boyd, Suite 222, 600 Enterprise Drive, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen foods*, (a) from points in New York within 75 miles of and including Rochester, to points in Illinois and Kentucky. The purpose of this filing is to eliminate the gateways of Detroit, Mich. (through Canada) or Sturgis, Mich. (b) from points in New York, within 75 miles of and including Rochester, to points in Missouri, Tennessee, and Wisconsin. The purpose of this filing is to eliminate the gateway of Detroit, Mich.; (c) from points in Cattaraugus, Chautauqua and Erie Countries, N.Y., to Chicago, Ill., Green Bay and Milwaukee, Wis., points in Connecticut, Indiana, Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania and Rhode Island. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.; (d) from points in Cattaraugus, Chautauqua and Erie Counties, N.Y., to points in Missouri, Tennessee and Wisconsin. The purpose of this filing is to eliminate the gateways of Buffalo, N.Y. and Detroit, Mich.; (e) from points in Cattaraugus, Chautauqua; and Erie Counties, N.Y., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin, and West Virginia. The purpose of this filing is to eliminate the gateways of Buffalo, N.Y. and Union County, N.J.

(f) From points within 75 miles of and including Rochester, N.Y., to points in Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, Wisconsin, and West Virginia. The purpose of this filing is to eliminate the gateway of Union County, N.J.

(g) From Cattaraugus, Chautauqua, and Erie Counties, N.Y., to Chicago, Ill., Green Bay and Milwaukee, Wis., points in Indiana, Michigan, Ohio, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

(h) From Cattaraugus, Chautauqua and Erie Counties, N.Y., to points in Delaware, Maryland, Kentucky and West Virginia. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

(2) *Canned and preserved foods*, from Buffalo, N.Y., to points in Connecticut, Massachusetts, and Rhode Island. The purpose of this filing is to eliminate the gateways of Angola or N. Collins, N.Y.

(3) *Frozen juices, frozen berries and essence of berries*, from Buffalo, N.Y., to points in Delaware, Maryland, Kentucky, and West Virginia. The purpose of this filing is to eliminate the gateway of Westfield, N.Y.

(4) *Frozen fruits and berries, frozen fruit and berry concentrates, and essence of fruits and berries*, from Buffalo, N.Y., to points in Arkansas, Colorado, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Oklahoma, Texas, and Wisconsin. The purpose of this filing is to eliminate the gateway of Westfield, N.Y.

(5) *Foodstuffs (except in bulk, in tank vehicles)*, from Buffalo, N.Y., to points in Vermont, New Hampshire and that part of Maine on and south of Maine Highway 25. The purpose of this filing is to eliminate the gateway of Riceville, N.Y.

(6) *Meats, meat products, and meat by-products, as defined by the Commission*, from Cattaraugus, Chautauqua and Erie Counties, N.Y., Camden, Newark and Jersey City, N.J., Baltimore, Md. and Philadelphia and Middletown, Pa. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

(7) *Dairy products and dressed poultry*, from points in Cattaraugus, Chautauqua and Erie Counties, N.Y., to Boston, Springfield and Worcester, Mass. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

(8) *Grape juice, in bottles*, from Buffalo, N.Y., to points in Connecticut, Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateway of Silver Creek, N.Y.

(9) *Fruits, vegetables and canned and preserved foodstuffs*, from points in Cattaraugus, Chautauqua and Erie Counties, N.Y., to Providence, R.I. and points in Connecticut and Massachusetts. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

No. MC 114019 (Sub-No. 257G), filed June 4, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arnold L. Burke, 127 N. Dearborn St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities*, except those of unusual value, household goods as defined by the Commission, classes A and B explosives, livestock, commodities in bulk, and commodities requiring special equipment, (1) between points in that part of New York on and west of a line beginning at Windsor Beach, N.Y., and extending to Rochester, N.Y., thence along U.S. Highway 15 to Wayland, N.Y., thence along New York Highway 245 to Dansville, N.Y., thence along New York Highway 36 to junction New York Highway 21, thence along New York Highway 21 to Andover, N.Y., and thence along New York Highway 17 to the New York-Pennsylvania State Line on the one hand, and, on the other, points in West Virginia, Pennsylvania, points in New Jersey, Delaware, and Maryland, which are located within 30 miles of Philadelphia, Pa., Sparrows Point and Baltimore, Maryland, and New York, N.Y., and points within 30 miles of New York, N.Y. The purpose of this filing is to eliminate the gateway of Ohio.

(2) Between points in that part of Pennsylvania on and west of U.S. Highway 219 extending from the Maryland-Pennsylvania State line near Salisbury, Pa., to Ebensburg, Pa., thence on and south of U.S. Highway 422 extending from Ebensburg to Portersville, Pa., thence on and west of U.S. Highway 19 extending from Portersville to Mercer, Pa., and thence on and south of U.S. Highway 62 extending from Mercer to the Pennsylvania-Ohio State line on the one hand, and, on the other, points in West Virginia, Philadelphia, Pa., and points in New Jersey, Delaware, and Maryland, within 30 miles of Philadelphia, Pa., New York, N.Y., and points within 30 miles of New York, N.Y., Sparrows Point and Baltimore, Md. The purpose of this filing is to eliminate the gateway of Ohio.

(3) Between points in Pennsylvania on the one hand, and, on the other, points in West Virginia. The purpose of this filing is to eliminate the gateway of Belmont County, Ohio.

(4) Between points in West Virginia on the one hand, and, on the other, Sparrows Point and Baltimore, Md., New York, N.Y., points within 30 miles of New York, N.Y., Philadelphia, Pa., and points in that part of New Jersey, Delaware, and Maryland, which are located within 30

miles of Philadelphia, Pa. The purpose of this filing is to eliminate the gateway of Ohio.

(5) From points in Ohio to points in that part of Indiana on and north of U.S. Highway 24 from the Indiana-Illinois State line to Fort Wayne, and thence on and west of Indiana Highway 3 from Fort Wayne to the Indiana-Michigan State line. The purpose of this filing is to eliminate the gateway of Akron, Ohio.

No. MC 108119 (Sub-No. 41G), filed June 3, 1974. Applicant: E. L. MURPHY TRUCKING CO., a corporation, 3303 Sibley Memorial Highway, P.O. Box 3010, St. Paul, Minn. 55165. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* which, because of size or weight, require special handling or the use of special equipment, and *related parts, materials and supplies*, when their transportation is incidental to the transportation by carrier of commodities which, by reason of size or weight, require special handling or the use of special equipment, and *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies* moving in connection therewith, between points in Wisconsin, on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Michigan (Lower Peninsula only), New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia. The purpose of this filing is to eliminate the gateways of points in Minnesota.

No. MC 114569 (Sub-No. 108G), filed June 4, 1974. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: Herbert R. Nurick, P.O. Box 1166, 100 Pine Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese*, from points in the upper peninsula of Michigan and points in Wisconsin, to points in Delaware, Maryland, New Jersey, New York, Virginia, West Virginia, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Milton, Pa.

(2) *Foodstuffs* (except frozen foods and except commodities in bulk in tank vehicles), from points in Derry Township (Dauphin County), Pa., to points in Arizona, Arkansas, Colorado, Kansas, Kentucky, Louisiana, Illinois, Indiana, Iowa, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, Ohio, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateway of the plantsite of Duffy Mott Company, Inc., at Aspers (Menallen Township), Adams County, Pa.

No. MC 11561 (Sub-No. 24G), filed May 31, 1974. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Rd., Rockford, Ill. 61102. Applicant's representative: Robert D. Higgins (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* in bulk, in tank trucks, (1) from Lemont, Palatine, Montgomery, and Chicago, Ill., to points in that part of Wisconsin on and east of a line beginning at the Illinois-Wisconsin State line, thence along Wisconsin Highway 140 to its intersection with U.S. Highway 14, thence along U.S. Highway 14 to Janesville, thence along Wisconsin Highway 26 to Jefferson, thence along U.S. Highway 18 to its intersection with Wisconsin Highway 89, thence along Wisconsin Highway 89 to Columbus, thence along Wisconsin Highway 73 to Wautoma, Wis., thence along Wisconsin Highway 22 to its intersection with U.S. Highway 141, thence along U.S. Highway 141 to the Wisconsin-Michigan State line. The purpose of this filing is to eliminate the gateway of Rockford, Ill.

(2) From Lemont, Palatine, Montgomery, and Chicago, Ill., to points in that part of South Dakota on east and north of a line beginning at the South Dakota-Minnesota State line along South Dakota Highway 34 to Madison, thence along U.S. Highway 81 to Arlington, thence along U.S. Highway 14 to De Smet, S. Dak., thence along South Dakota Highway 25 to its intersection with South Dakota Highway 28, thence along South Dakota Highway 28 to its intersection with South Dakota Highway 37, thence along South Dakota Highway 37 to its intersection with U.S. Highway 212, thence along U.S. Highway 212 to its intersection with South Dakota Highway 47 to Hoven, thence along South Dakota Highway 20 to its intersection with U.S. Highway 83, thence along U.S. Highway 83 to its intersection with U.S. Highway 12, thence along U.S. Highway 12 to the North Dakota-South Dakota State line. The purpose of this filing is to eliminate the gateway of Niota, Ill.

(3) From Lemont, Palatine, Montgomery, and Chicago, Ill., to points in that portion of Missouri east of Missouri Highway 51. The purpose of this filing is to eliminate the gateways of Niota, Ill. or Rockford, Ill.

(4) From Lemont, Palatine, Montgomery, and Chicago, Ill., to points in that part of Missouri west of Missouri Highway 51 and east of U.S. Highway 67 and Missouri Highway 47. The purpose of this filing is to eliminate the gateway of Niota, Ill.

(5) From Lemont, Palatine, Montgomery, and Chicago, Ill., to that portion of New York west of New York Highway 12 and U.S. Highway 11. The purpose of this filing is to eliminate the gateway of Rockford, Ill.

(6) From Lemont, Palatine, Montgomery, and Chicago, Ill., to points in that portion of Pennsylvania on and west of a line beginning at the Pennsylvania-New York State line along U.S. Highway 220 to its intersection with Pennsylvania Highway 42, thence along Pennsylvania Highway 42 to its intersection with Interstate Highway 81, thence along Interstate Highway 81 to its intersection with U.S. Highway 209, thence along U.S. Highway 209 to its intersection with Pennsylvania Highway 125, thence along Pennsylvania Highway 125 to its intersection with Pennsylvania Highway 501, thence along Pennsylvania Highway 501 to its intersection with U.S. Highway 222, thence along Pennsylvania Highway 222 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Rockford, Ill.

(7) From the facilities of Clark Chemical Corp., at Blue Island, Ill., to points in Indiana, Michigan, Ohio, Vermont, Maine, New Hampshire, Kentucky, and Tennessee. The purpose of this filing is to eliminate the gateways of Rockford, Ill. or Niota, Ill.

(8) From Hinckley, Ill., to points in Missouri, Iowa, Wisconsin, Indiana, Michigan, and Kentucky. The purpose of this filing is to eliminate the gateway of Niota, Ill.

(9) From Lemont and Chicago, Ill., to points in Missouri, Wisconsin, Indiana, Michigan, Ohio, Pennsylvania, New York, Vermont, Maine, New Hampshire, Kentucky, and Tennessee. The purpose of this filing is to elimfnate the gateway of Niota, Ill.

No. MC 115826 (Sub-No. 259G), filed June 4, 1974. Applicant: W. J. DIGBY, INC., 1960 31st St., P.O. Box 5088 T.A., Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Frozen fruits, berries and vegetables*, (1) from Phoenix, Ariz., and points in California, to Amarillo, Tex. The purpose of this filing is to eliminate the gateway at Denver, Colo.

(2) From Salinas, San Martin, San Jose, Santa Clara, Fresno, Sanger, and Patterson, Calif., to Amarillo, Tex. The purpose of this filing is to eliminate the gateway at Albuquerque, N. Mex.

(3) From Watsonville, and Modesto, Calif., to points in Colorado. The purpose of this filing is to eliminate the gateway at Phoenix, Ariz.

(4) From Auburn, Mt. Vernon, Arlington, and Seattle, Wash., to Amarillo, Tex. The purpose of this filing is to eliminate the gateway at Albuquerque, N. Mex.

(5) From Auburn, Mt. Vernon, Arlington, and Seattle, Wash., to Lubbock, Tex. and points within 100 miles thereof. The purpose of this filing is to eliminate the gateway at Albuquerque, N. Mex.

(6) From Salinas, San Martin, San Jose, Santa Clara, Fresno, Sanger, and Patterson, Calif., to points in Colorado. The purpose of this filing is to eliminate the gateway at Phoenix, Ariz.

(7) From points in California, to points in Oklahoma, Joplin, Mo. and points within 100 miles of Joplin. The

purpose of this filing is to eliminate the gateway at Tulsa, Okla.

(B) *Frozen Fruits and vegetables,* (1) from Phoenix, Ariz., and points in California, to Amarillo and El Paso, Tex. and Albuquerque, N. Mex. The purpose of this filing is to eliminate the gateway at Loveland, Colo.

(2) From Delta, Colo., to points in Oklahoma. The purpose of this filing is to eliminate the gateway at Tulsa, Okla.

(3) From Brownsville and Harlingen, Tex., to points in Oregon, Idaho and Washington. The purpose of this filing is to eliminate the gateway at Alturas, Calif.

(C) *Fresh fruits and vegetables,* (1) from points in California, and Phoenix, Ariz., to points in Oklahoma City and Tulsa, Okla., Albuquerque, N. Mex., Amarillo, Austin, Dallas, El Paso, Houston, and San Antonio, Tex. The purpose of this filing is to eliminate the gateway at Delta, Colo.

(2) From Phoenix, Ariz. and points in California, to Tulsa, Okla., Abilene, Austin, Dallas, Ft. Worth, Houston, Longview, San Antonio, Wichita Falls, and Amarillo, Tex., and Oklahoma City, Okla. The purpose of this filing is to eliminate the gateway at Denver, Colo.

(3) From Phoenix, Ariz. and points in California, to points in Oklahoma, Texas (except El Paso), and New Mexico (except points on U.S. Highway 85). The purpose of this filing is to eliminate the gateway at Denver, Colo.

(D) *Fresh, frozen and cured meats, and canned meats,* (1) from Denver, Colo., to points in Washington, Oregon and Idaho. The purpose of this filing is to eliminate the gateway at Alturas, Calif.

(2) From the plantsite of Minden Beef Co., located at or near Minden, Nebr., to points in Washington, Oregon and Idaho. The purpose of this filing is to eliminate the gateway at Alturas, Calif., and Four Corners Area, Ariz.

(3) From the plantsite of Cornland Dressed Beef Company, located at or near Lexington, Nebr., to points in Washington, Oregon and Idaho. The purpose of this filing is to eliminate the gateway at Alturas, Calif. and Four Corners Area, Ariz.

(4) From the plantsite of Producers Packing Company, near Garden City, Kans., to points in Washington, Oregon and Idaho. The purpose of this filing is to eliminate the gateway at Alturas, Calif. and Four Corners Area, Ariz.

(5) From points in California, to points in Arizona, Colorado, Illinois, Missouri, Massachusetts, Michigan, Montana, New Jersey, New York, Ohio, Oregon, Pennsylvania and Utah. The purpose of this filing is to eliminate the gateway at Roberts, Idaho.

(6) From points in California, to points in Idaho, Iowa, Kansas, Minnesota, Missouri, Nebraska, Nevada, Wisconsin and the District of Columbia. The purpose of this filing is to eliminate the gateway at Roberts, Idaho.

(7) From points in California to points in Arizona, Colorado, Illinois, Maryland, Massachusetts, Michigan, Montana, New Jersey, New York, Ohio, Oregon, Pennsylvania, Utah and Washington. The purpose of this filing is to eliminate the gateway at Gooding, Idaho.

(8) From Phoenix, Ariz., to points in Oregon, Washington and Idaho. The purpose of this filing is to eliminate the gateway at Blythe, Calif.

(9) From Madison, Wis., to points in Oregon, Washington, and Idaho. The purpose of this filing is to eliminate the gateway at Sacramento, Calif.

(10) From East St. Louis, Ill., Ft. Dodge, Iowa and Storm Lake, Iowa, to points in Oregon, Washington and Idaho. The purpose of this filing is to eliminate the gateway at Sacramento, Calif.

(E) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except in bulk, and hides), (1) from the plantsite of Cornland Dressed Beef Company, located at or near Lexington, Nebr., to points in California. The purpose of this filing is to eliminate the gateway at Phoenix, Ariz.

(2) From the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to points in Arizona. The purpose of this filing is to eliminate the gateway at Ogden, Utah.

(F) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except in bulk), from the plantsite of Cornland Dressed Beef Company, located at or near Lexington, Nebr., to points in New Mexico. The purpose of this filing is to eliminate the gateway at Sunflower, Ariz.

(G) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* 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 commodities in bulk, in tank vehicles), (1) from the plantsite of Producers Packing Company near Garden City, Kans., to points in California. The purpose of this filing is to eliminate the gateway at Phoenix, Ariz.

(2) From the plantsite of Stockmen's Meat Packing Corp., at or near Gooding, Idaho, to points in Arizona, California, and Nevada. The purpose of this filing is to eliminate the gateway at Salt Lake City, Utah.

(3) From Roberts, Idaho and points within 5 miles thereof, to points in Arizona, California and Nevada. The purpose of this filing is to eliminate the gateway at Salt Lake City and points in Cache and Weber Counties, Utah.

(4) From Roberts, Idaho and points within 5 miles thereof, to points in Alabama, Florida, Georgia, New Mexico, North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway at Phoenix, Ariz.

(H) *Inedible meat* used as feed ingredients, (1) from Greeley, Colo., Pueblo, Colo., and points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, to Portland, Oreg. The purpose of this filing is to eliminate the gateway at Midvale, Utah.

(2) From Greeley, Colo., Pueblo, Colo., and points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin, to points in Arizona, California, and Nevada. The purpose of this filing is to eliminate the gateway at Midvale, Utah.

(I) *Inedible packinghouse products* (except in bulk), from the plantsite of Stockmen's Meat Packing Corp., at or near Gooding, Idaho, to points in Portland, Oreg. The purpose of this filing is to eliminate the gateway at Salt Lake City, Utah.

(J) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (1) from the plantsite of Stockmens Meat Packing Corp., at or near Gooding, Idaho, to points in Nevada and California. The purpose of this filing is to eliminate the gateway at Salt Lake City, Utah.

(2) From the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to points in California. The purpose of this filing is to eliminate the gateway at Bountiful, Utah.

(K) *Frozen meats and meat products,* (1) from the plantsite of Stockmen's Meat Packing Corp., at or near Gooding, Idaho, to Amarillo, Tex., and Oklahoma City, Okla. The purpose of this filing is to eliminate the gateway at Denver, Colo.

(2) From Roberts, Idaho, and points within 5 miles thereof, to Oklahoma City, Okla. The purpose of this filing is to eliminate the gateway at Denver, Colo.

(3) From Roberts, Idaho, and points within 5 miles thereof, to Amarillo, Tex. The purpose of this filing is to eliminate the gateway at Denver, Colo.

(4) From Roberts, Idaho and points within 5 miles thereof, to points in Arizona, California, New Mexico, and Texas. The purpose of this filing is to eliminate the gateway at Denver, Colo. and Amarillo, Tex.

(5) From Billings, Mont., to Amarillo, Tex., Oklahoma City, Okla., and Albuquerque, N. Mex. The purpose of this filing is to eliminate the gateway at Denver, Colo. and Amarillo, Tex.

(6) From Oklahoma City, Okla., to points in California. The purpose of this filing is to eliminate the gateway at Denver, Colo.

(L) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except in bulk, in tank vehicles, and hides), (1) from the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to points in California.

The purpose of this filing is to eliminate the gateway at Denver, Colo.

(2) From the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to points in Arizona, Colorado, Montana, Oregon, Utah and Washington. The purpose of this filing is to eliminate the gateway at Roberts, Idaho.

(3) From the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to points in California, Arizona and Nevada. The purpose of this filing is to eliminate the gateway at Salt Lake City, Utah.

(4) From Denver, Colo., Colorado Springs and Greeley, Colo. (except frozen foods, from Colorado Springs and Greeley), to points in Arizona, California, and Nevada. The purpose of this filing is to eliminate the gateway at Salt Lake City, Utah.

(5) From Denver, Colo., Colorado Springs, and Greeley, Colo. (except frozen foods, from Colorado Springs and Greeley), to points in Arizona. The purpose of this filing is to eliminate the gateway at Ogden, Utah.

(M) *Frozen fruits, frozen vegetables, frozen fruit and vegetable juices*, from points in California, to points in Alabama and Tennessee (except from Sacramento and Watsonville, Calif.), to Chattanooga, Knoxville, Memphis and Nashville, Tenn. The purpose of this filing is to eliminate the gateway at Freewater, or Portland, Oreg.

(N) *Fresh lamb carcasses* suspended on or in racks, from points in California, to the District of Columbia, Philadelphia, Pa., Albany and New York, N.Y., Boston, Mass., Waterbury, Conn. and Providence, R.I. The purpose of this filing is to eliminate the gateway at Nampa, Idaho.

(O) *Meats and meat products and packinghouse products*, from points in Jefferson County, Idaho, to points in Oklahoma. The purpose of this filing is to eliminate the gateway at Joplin, Mo.

(P) *Frozen prepared vegetable foods*, from San Jose, Calif., to Lubbock, Tex., and points within 100 miles thereof. The purpose of this filing is to eliminate the gateway at Albuquerque, N. Mex.

(Q) *Frozen and canned eggs*, from Enid, Okla., and Dallas, and Houston, Tex., to points in Oregon, Washington, and Idaho (except canned eggs to Idaho). The purpose of this filing is to eliminate the gateway at Alturas, Calif.

(R) *Fresh and frozen meats; frozen and canned; fish, eggs, butter, fruits and vegetables, and poultry*, from Lubbock, Tex. and points within 100 miles thereof, to points in Oregon, Washington and Idaho (except canned and fresh commodities, other than meats, to Idaho). The purpose of this filing is to eliminate the gateway at Alturas, Calif. and Four Corners Area, Ariz.

(S) Inedible packinghouse products, from the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Phelps City, Mo., to Portland, Oreg. The purpose of this filing is to eliminate the gateway at Salt Lake City, Utah.

(T) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, 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, from Roberts, Idaho, and points within 5 miles thereof, to points in California. The purpose of this filing is to eliminate the gateway at Phoenix, Ariz.

(U) *Frozen meats*, from points in California, to Tulsa and Oklahoma City, Okla. The purpose of this filing is to eliminate the gateway at Franklin or Strevelle, Idaho.

(V) *Frozen foods*, from points in California, to points in Texas, New Mexico, Kansas, Louisiana, and Arkansas. The purpose of this filing is to eliminate the gateway at Franklin or Strevelle, Idaho.

(W) *Frozen foods and frozen juice and juice concentrates*, from points in California, to points in Kansas, Missouri and Mississippi, and Memphis, Tenn. The purpose of this filing is to eliminate the gateway at Franklin, or Strevelle, Idaho.

(X) *Frozen groceries and packinghouse products*, from points in Idaho, Oregon and Washington, to points in Oklahoma. The purpose of this filing is to eliminate the gateway at Tulsa, Okla.

No. MC 115840 (Sub-No. 100G), filed December 27, 1974. Applicant: COLONIAL FAST FREIGHT LINES, INC., 107 Vulcan Road, Homewood, Ala. 35209. Applicant's representative: E. Stephen Heisley, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such iron and steel articles, cranes and sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel mill products, and *commodities* the transportation of which because of size or weight require 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 by reason of size and weight require special equipment, from Anniston, Ala., to points in Florida, Georgia, Tennessee, Mississippi, and Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or a point in its commercial zone.

(2) *Such materials and supplies* (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, *cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel mill products, and *commodities* the transportation of which because of their size or weight require 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 by reason of size or weight require special equipment, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and points in that part of Louisiana on and east of the Mississippi River, to points in Florida, Georgia, Tennessee, Mississippi, and Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or a point in its commercial zone.

(3) *Such iron and steel articles; cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel and iron and steel articles, from Anniston, Ala., to points in Arkansas and Oklahoma. The purpose of this filing is to eliminate the gateways of Birmingham or Decatur, Ala., or a point in the commercial zones.

(4) *Such materials and supplies* (except in bulk) used in the operations, production, processing, or transportation of iron and steel articles, *cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in fibre pipe and fibre pipe fittings, iron and steel, and iron and steel articles, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and points in that part of Louisiana on and east of the Mississippi River, to points in Arkansas and Oklahoma. The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or a point in its commercial zone.

(5) *Such cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in cement asbestos products (except conduit and pipe which because of size, shape, weight, or inherent character require the use of special equipment), and *fittings, materials, and accessories* for the installation or transportation thereof (except in bulk), and *plastic pipe and pipe fittings* in mixed loads with cement asbestos products, from Anniston, Ala., to points in Florida, Georgia, Louisiana, and Tennessee. The purpose of this filing is to eliminate the gateway of Ragland, Ala. or a point in its commercial zone.

(6) *Cast iron pipe, pipe fitings, pipe valves, and fire hydrants*, from Coshocton, Ohio, to points in Tennessee, Georgia, Alabama, Florida, Mississippi, and Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Anniston, Ala. or a point in its commercial zone.

(7) *Such iron and steel articles; cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel and iron and steel articles (except commodities which because of size or weight require the use of special equipment), from Anniston, Ala., to points in Alabama, Arkansas, Georgia, Florida, Mississippi, Tennessee, and Louisiana on and east of the Mississippi River. The purpose of this filing is to eliminate the gateways of Guntersville, Decatur, or Sheffield, Ala.; or Memphis, Tenn.; or Vicksburg or Natches, Miss. or a point in their respective commercial zones.

(8) *Such iron and steel, and iron and steel articles* (except commodities which because of size or weight require the use of special equipment), *cranes, sand hop-*

pers, elevators, conveyors, dust collectors, and meter boxes as are embraced in iron and steel and iron and steel articles, from points on the Mississippi and Tennessee Rivers on and south of the Kentucky-Tennessee state line, to points in Tennessee, Georgia, Florida, Alabama, Mississippi, and Louisiana on and east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Anniston, Ala. or a point in its commercial zone.

(9) *Such materials and supplies* (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, *cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel and iron and steel articles (except commodities which because of size or weight require the use of special equipment), from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and points in that part of Louisiana on and east of the Mississippi River, to points in Alabama, Arkansas, Mississippi, Tennessee, and Louisiana located on the Mississippi and Tennessee Rivers on and south of the Kentucky-Tennessee state line. The purpose of this filing is to eliminate the gateways of Birmingham, Bessemer, or Anniston, Ala. or a point in their commercial zone.

(10) *Iron and steel articles,* except those the transportation of which by reason of size or weight require the use of special equipment, from the plantsite of Tennessee Forging Steel, near Harrimon, Tenn., to points in Georgia, Tennessee, Alabama, Florida, Mississippi, and points in that part of Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Anniston, Ala. or a point in its commercial zone.

(11) *Such plastic pipe, plastic or iron fittings, and connections, valves, and hydrants* as are encompassed in iron and steel articles, cranes, sand hoppers, dust collectors, elevators, conveyors, and meter boxes, from Anniston, Ala., to points in Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Clow Corporation plantsite located near Lincoln, Ala.

(12) *Such polyvinylchloride* (except in bulk), as is embraced in materials and supplies used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from points in Texas, Louisiana, and Kentucky, to Bessemer, Birmingham, and Anniston, Ala. The purpose of this filing is to eliminate the gateway of Clow Corporation plantsite near Lincoln, Ala.

(13) *Such rubber gaskets* as are embraced in materials and supplies used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from Houston, Tex., to Anniston, Bessemer, and Birmingham, Ala. The purpose of this filing is to eliminate the gateway of Clow Corporation plantsite near Lincoln, Ala.

(14) *Such scrap metals,* as embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from points in Arkansas and Oklahoma, to points in Tennessee, Georgia, Alabama, Florida, Mississippi, and points in that part of Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Anniston, Ala. or a point in its commercial zone.

(15) *Such materials and supplies* used in the agriculture, water treatment, food processing, wholesale groceries, and institutional supply industries (except in bulk) as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from points on the Warrior-Tombigbee-Alabama River System, located in Alabama, to points in Tennessee, Georgia, Alabama, Florida, Mississippi, and points in Louisiana east of the Mississippi River, restricted against the transportation of traffic from points in Mobile and Baldwin Counties, Ala., to Memphis, Tenn., and points in Tennessee within the Memphis, Tenn. commercial zone as defined by the Commission. The purpose of this filing is to eliminate the gateways of Anniston, Ala. or a point in its commercial zone.

(16) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in materials and supplies used in the agriculture, water treatment, food processing, wholesale groceries, and institutional supply industries (except in bulk), from Anniston, Ala., to points in Tennessee, Georgia, North Carolina, South Carolina, Florida, and Alabama, restricted against the transportation of traffic from points in Mobile and Baldwin Counties, Ala., to Memphis, Tenn., and points in Tennessee within the Memphis, Tenn. commercial zone as defined by the Commission. The purpose of this filing is to eliminate the gateways of Bessemer or Birmingham, Ala. or a point in their commercial zones.

(17) *Such materials and supplies* (except in bulk) used in the operations, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, as are embraced in materials and supplies used in the agriculture, water treatment, food processing, wholesale groceries, and institutional supply industries, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and points in that part of Louisiana on and east of the Mississippi River, to points in Tennessee, Georgia, North Carolina, South Carolina, Florida and Alabama, restricted against the transportation of traffic from points in Mobile and Baldwin Counties, Ala., to Memphis, Tenn., and points in Tennessee within the Memphis, Tenn. commercial zone as defined by the Commission. The purpose of this filing is to eliminate the gateways of Anniston, Bessemer, or Birmingham, Ala. or a point in their commercial zones.

(18) *Such plastic pipe, plastic or iron fittings, connections, valves, hydrants and gaskets,* as are embraced in cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from Anniston, Ala., to points in Connecticut, Delaware, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Wisconsin, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Clow Corporation plantsite or storage facilities near Lincoln, Ala.

(19) *Such cast iron and brass valves, and components, and cast iron fire hydrants,* as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from Anniston, Ala., to points in Florida, Georgia, Tennessee, Mississippi, Arkansas, Oklahoma, Louisiana, and Texas. The purpose of this filing is to eliminate the gateway of Birmingham, Ala., or a point in its commercial zone.

(20) *Such materials and supplies* (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, as are embraced in cast iron and brass valves and components, and cast iron fire hydrants, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and Louisiana on and east of the Mississippi River, to points in Florida, Georgia, Tennessee, Mississippi, Arkansas, Oklahoma, Louisiana and Texas. The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or a point in its commercial zone.

(21) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes,* as are embraced in iron and steel articles, and contractors' equipment, materials, and supplies (except cement and commodities in bulk), from Anniston, Ala., to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Leeds, Ala. or a point in its commercial zone.

(22) *Such materials and supplies* (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, *cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes,* as are embraced in iron and steel articles, and *contractors' equipment, materials, and supplies* (exctpt cement and commodities in bulk), from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and Louisiana on and east of the Mississippi River, to points in North Carolina and South Carolina. The purpose

of this filing is to eliminate the gateway of Birmingham, Ala. or a point in its commercial zone.

(23) *Iron and steel articles,* from Anniston, Ala., to points in Kentucky, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateway of Memphis, Tenn. and points in the Memphis, Tenn. commercial zone.

(24) *Iron and steel articles,* from Anniston, Ala., to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Chattanooga, Tenn. or a point in its commercial zone.

(25) *Such farm implements,* as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from Anniston, Ala., to points in Arkansas, Oklahoma, Florida, Alabama, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, and Texas. The purpose of this filing is to eliminate the gateway of Poplarville, Miss. or a point in its commercial zone.

(26) *Such farm implements,* as are embraced in iron and steel articles, from Poplarville, Miss., to points in Tennessee, Georgia, Alabama, and Florida. The purpose of this filing is to eliminate the gateway of Anniston, Ala. or a point in its commercial zone.

(27) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes,* as are embraced in iron and steel articles, valves, hydrants, gaskets, overhead highway sign structures, highway breakaway posts, highway guardrails, and uprights, from Anniston, Ala., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Kentucky, and Pennsylvania (except Bradford and Wellsboro, Pa.). The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or a point in its commercial zone.

(28) *Such materials and supplies* (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, *cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel articles, valves, hydrants, gaskets, overhead highway sign structures, highway breakaway posts, highway guardrails, and uprights, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and points in that part of Louisiana on and east of the Mississippi River, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Kentucky, and Pennsylvania (except Bradford and Wellsboro, Pa.). The purpose of this filing is to eliminate the gateway of Birmingham, Ala. or a point in its commercial zone.

(29) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel articles, and *fabricated and structural aluminum,* from Anniston, Ala., to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Anniston, Ala. or a point in the Anniston, Ala. commercial zone.

(30) *Such materials and supplies* (except in bulk) used in the operations, production, processing, or transportation of iron and steel articles, *cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel articles, and *fabricated and structural aluminum,* from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and that part of Louisiana on and east of the Mississippi River, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateways of Birmingham or Anniston, Ala., or a point in their commercial zones.

(31) *Such valves, hydrants, fittings, components, parts, and accessories* as are embraced in iron and steel articles, *cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes,* from Anniston, Ala., to points in Alabama, Louisiana, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Oklahoma, and Tennessee. The purpose of this filing is to eliminate the gateway of Anniston, Ala., or a point in its commercial zone.

(32) *Such materials and supplies* (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, as are embraced in valves, hydrants, fittings, components, parts, and accessories, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and points in that part of Louisiana on and east of the Mississippi River, to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Tennessee. The purpose of this filing is to eliminate the gateway of Anniston, Ala., or a point in its commercial zone.

(33) *Such valves, hydrants, fittings, components, parts, and accessories* (except in bulk) as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from Anniston, Ala., to points in Arizona, California, Colorado, Idaho, Illinois, on and bounded by a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to Springfield, Ill., thence along Illinois Highway 29 to Peoria, Ill., thence along Illinois Highway 116 to Metamora, Ill., thence along Illinois Highway 89 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Illinois Highway 31, thence along Illinois Highway 31 to unnumbered highway to (referred to as Aurora Ave.), thence along said unnumbered highway to U.S. Highway 34 to Chicago, Ill., thence along Lake Michigan to the Illinois-Indiana State line and thence along the Illinois-Indiana State line to the points of beginning, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio (except those points in that part of Ohio on, west, and north of a line beginning at a point on the Ohio-Pennsylvania State line near Sharon, Pa., and extending along U.S. Highway 62 to Columbus, Ohio, thence along U.S. Highway 23 to Circleville, Ohio, and thence along U.S. Highway 22 to Cincinnati, Ohio), Oregon, South Dakota, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateway of Anniston, Ala., or a point in its commercial zone.

(34) *Such materials and supplies* (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes as are embraced in valves, hydrants, fittings, components, parts, and accessories, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and points in that part of Louisiana on and east of the Mississippi River, to points in Arizona, California, Colorado, Idaho, Illinois, on and bounded by a line beginning at the Illinois-Indiana state line and extending along U.S. Highway 36 to Springfield, Ill., thence long Illinois Highway 29 to Peoria, Ill., thence along Illinois Highway 116 to Metamora, Ill., thence along Illinois Highway 39 to junction U.S. Highway 34, thence along U.S. Highway 34 to junction Illinois Highway 31, thence along Illinois Highway 31 to unnumbered highway to (referred to as Aurora Ave.), thence along said unnumbered highway to U.S. Highway 34 to Chicago, Ill., thence along Lake Michigan to the Illinois-Indiana state line and thence along the Illinois-Indiana state line to the points of beginning, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio (except those points in that part of Ohio on, west, and north of a line beginning at a point on the Ohio-Pennsylvania state line near Sharon, Pa., and extending along U.S. Highway 62 to Columbus, Ohio, thence along U.S. Highway 23 to Circleville, Ohio, and thence along U.S. Highway 22 to Cincinnati, Ohio), Oregon, South Dakota, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateway of Anniston, Ala. or a point in its commercial zone.

(35) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in pipe, fittings, valves, hydrants, gaskets, iron castings, and accessories (except in bulk), from Anniston, Ala., to points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the

gateway of Holt, Ala. or a point in its commercial zone.

(36) *Such pipe, fittings, valves, hydrants, gaskets, iron castings, and accessories* (except in bulk), as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from Holt, Ala., to points in Tennessee, Georgia, Alabama, Florida, Mississippi, and Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateway of Anniston, Ala. or a point in its commercial zone.

(37) *Such materials and supplies* (except commodities in bulk) used in the operation of a foundry as are embraced in materials and supplies used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from points in the United States (except Alaska and Hawaii), to Anniston, Bessemer, and Birmingham, Ala. The purpose of this filing is to eliminate the gateway of Holt, Ala. or a point in its commercial zone.

(38) *Such cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in aluminum articles, from Anniston, Ala., to points in that part of the United States lying in and east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota. The purpose of this filing is to eliminate the gateway of Plantsite of Planet Corporation, Inc. at Birmingham, Ala.

(39) *Such aluminum articles* as are embraced in materials and supplies (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from points in that part of the United States lying in and east of Texas, Oklahoma, Kansas, Nebraska, North Dakota, and South Dakota, to Anniston, Bessemer, and Birmingham, Ala. The purpose of this filing is to eliminate the gateway of Plantsite of Planet Corporation, Inc. at Birmingham, Ala.

(40) *Such materials and supplies* (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes as are embraced in aluminum articles, from points in North Carolina, South Carolina, Tennessee, Arkansas, Alabama, Georgia, Florida, Mississippi, and Louisiana on and east of the Mississippi River, to points in that part of the United States lying in and east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota. The purpose of this filing is to eliminate the gateway of Plantsite of Planet Corporation, Inc. at Birmingham, Ala.

(41) *Such materials and supplies* used in the agriculture, water treatment, food processing, wholesale groceries, and institutional supply industries (except in bulk) as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, meter boxes, and as also are embraced in pipe, fittings, valves, hydrants, gaskets, iron castings, and accessories, from points on the Warrior-Tombigbee-Alabama River System located in Alabama, to points in the United States (except Alaska and Hawaii), restricted against the transportation of traffic from points in Mobile and Baldwin Counties, Ala., to Memphis, Tenn., and points in Tennessee within the Memphis, Tenn. commercial zone as defined by the Commission. The purpose of this filing is to eliminate the gateways of Anniston and Holt, Ala. or a point in their respective commercial zones.

(42) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and metal boxes* as are embraced in materials and supplies (except in bulk) used in the agricultural, water treatment, food processing, wholesale groceries, and institutional supply industries, as are also embraced in pipe, fittings, valves, hydrants, gaskets, iron castings and accessories, from Anniston, Ala., to points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateways of Birmingham and Holt, Ala. or a point in their commercial zones.

(43) *Such materials and supplies* (except commodities in bulk) used in the operations of a foundry as are embraced in materials used in agricultural, water treatment, food processing, wholesale groceries, and institutional supply industries, and are also embraced iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from points in the United States (except Alaska and Hawaii), to points in Alabama located on the Warrior-Tombigbee-Alabama River System. The purpose of this filing is to eliminate the gateways of Holt and Birmingham, Ala. or a point in their commercial zones.

(44) *Such iron and steel articles, and contractors' equipment materials, and supplies* as are embraced in materials and supplies used in the agricultural, water treatment, food processing, wholesale groceries, and institutional supply industries, and also as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, meter boxes, and as are also embraced in pipe, fittings, valves, hydrants, gaskets, iron castings, and accessories (except in bulk), from points in North Carolina and South Carolina, to points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateways of Anniston, Birmingham, Montgomery, Ala. or points in their commercial zones, and Holt, Ala. or a point in its commercial zone.

(45) *Such cast iron pipe, pipe fittings, pipe valves, and fire hydrants,* as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes as are also embraced in pipe, fittings, valves, hydrants, gaskets, iron castings and accessories (except commodities in bulk), from Coshocton, Ohio, to points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateways of Anniston and Holt, Ala. or a point in their respective commercial zones.

(46) *Such iron and steel, and iron and steel articles* (except commodities which because of size or weight require the use of special equipment) as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, meter boxes, and as are also embraced in pipe, fittings, valves, hydrants, gaskets, iron castings, and accessories (except in bulk), from points on the Mississippi and Tennessee Rivers located in Louisiana, Mississippi, Arkansas, Tennessee, and Alabama, on and south of the Kentucky-Tennessee state line, to points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateways of Anniston and Holt, Ala., or a point in their respective commercial zones.

(47) *Such materials and supplies* (except in bulk) used in the operation of a foundry and as are also used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes and as are also embraced in iron and steel articles, and iron and steel (except commodities which because of size or weight require the use of special equipment), from points in the United States (except Alaska and Hawaii), to points in Louisiana, Mississippi, Arkansas, Tennessee, and Alabama located on the Mississippi or Tennessee Rivers on and south of the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of Holt, and Birmingham or Bessemer, Ala. or a point in their respective commercial zones.

(48) *Such materials and supplies* (except in bulk) used in the operations of a foundry and as are also used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes and as also are embraced in iron and steel and iron and steel articles (except commodities which because of size or weight require the use of special equipment), from points in the United States (except Alaska and Hawaii), to points in Louisiana, Mississippi, Arkansas, Tennessee, and Alabama located on the Mississippi or Tennessee Rivers on and south of the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of Holt and Anniston, Ala. or a point in their respective commercial zones.

(49) *Such iron and steel and iron and steel articles* (except commodities which because of size or weight require the use of special equipment) as are also embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes and as also are embraced in iron and steel mill products and commodities the transportation of which because of size or weight require 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 by reason of size or weight require special equipment, from points on the Mississippi and Tennessee Rivers located in Louisiana, Mississippi, Arkansas, Tennessee, and Alabama on and south of the Kentucky-Tennessee State line, to points in Florida, Georgia, Tennessee, Mississippi, and Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateways of Anniston and Birmingham, Ala. or a point in their commercial zones.

(50) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in iron and steel mill products and commodities the transportation of which because of their size or weight require the use of special equipment, and related machinery parts and related contractors' material and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight require the use of special equipment, from Anniston, Ala., to points in Kentucky, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateways of Birmingham, Ala. and Memphis, Tenn. or a point in their respective commercial zones.

(51) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced in pipe, fittings, valves, hydrants, gaskets, iron castings and accessories as are also embraced in valves, hydrants, fittings, components, parts and accessories (except commodities in bulk), from Anniston, Ala., to points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateways of Holt and Anniston, Ala. or a point within their respective commercial zones.

(52) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes* as are embraced iron and steel, iron and steel articles (except commodities which because of size or weight require the use of special equipment), as are also embraced in iron and steel articles, valves, hydrants, gaskets, overhead highway sign structures, highway break-away posts, highway guardrails, and uprights, from Anniston, Ala., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Kentucky, and Pennsylvania (except Bradford and Wellsboro). The purpose of this filing is to eliminate the gateways of Guntersville and Birmingham, Ala. or a point in their respective commercial zones.

(53) *Such iron and steel, and iron and steel articles* (except commodities which because of size or weight require the use of special equipment), as are also embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, as are also embraced in iron and steel articles, valves, hydrants, gaskets, overhead highway sign structures, highway break-away posts, highway guardrails, and uprights, from points in Louisiana, Mississippi, Arkansas, Tennessee, and Alabama located on the Mississippi or Tennessee Rivers on and south of the Kentucky-Tennessee state line, to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Kentucky, and Pennsylvania (except Bradford and Wellsboro, Pa.). The purpose of this filing is to eliminate the gateways of Anniston and Birmingham, Ala. or a point in their respective commercial zones.

(54) *Such iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes,* as are embraced in farm implements, as are also embraced in iron and steel mill products and commodities the transportation of which because of their size or weight require 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 by reason of size or weight require special equipment, from Anniston, Ala., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, North Carolina, South Carolina, Oklahoma, Tennessee, and Texas. The purpose of this filing is to eliminate the gateways of Birmingham, Ala. and Poplarville, Miss. or a point in their commercial zones.

(55) *Such materials and supplies* (except commodities in bulk) used in the operations of a foundry as are also used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hopper, elevators, conveyors, dust collectors, and meter boxes as are embraced in iron and steel mill products and commodities the transportation of which because of their size or weight require 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 by reason of size or weight require special equipment, from points in the United States (except Alaska and Hawaii), to points in Florida, Georgia, Tennessee, Mississippi, and those in Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateways of Holt, Bessemer, or Birmingham, Ala. or a point in their respective commercial zones.

(56) *Such iron and steel mill products and commodities* the transportation of which because of their size or weight require 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 by reason of size or weight require special equipment as are embraced in materials and supplies (except in bulk) used in the operations of a foundry as are also used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from points in Florida, Georgia, Tennessee, Mississippi, and those in Louisiana east of the Mississippi River, to Anniston, Bessemer, and Birmingham, Ala. The purpose of this filing is to eliminate the gateways of Birmingham and Holt, Ala. or a point in their respective commercial zones.

(57) *Such materials and supplies* (except commodities in bulk) used in the operations, of a foundry as are also used the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes also are embraced in iron and steel articles and contractors' equipment, materials, and supplies, from points in the United States (except Alaska and Hawaii), to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateways of Holt and Birmingham, Ala. or a point in their respective commercial zones.

(58) *Such materials and supplies* (except in bulk) used in the operations of a foundry as are also used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes as are also embraced in iron and steel articles, valves, hydrants, gaskets, overhead highway sign structures, highway break-away posts, highway guardrails, and uprights, from points in the United States (except Alaska and Hawaii), to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Kentucky, and Pennsylvania (except Bradford and Wellsboro, Pa.). The purpose of this filing is to eliminate the gateways of Holt and Birmingham, Ala. or points in their respective commercial zones.

(59) *Such farm implements* as are also embraced in materials and supplies (except in bulk) used in the operation, production, processing or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes as would also be embraced in iron and steel articles, valves, hydrants, gaskets, overhead highway sign structures, breakaway posts, highway guardrails, and uprights, from Poplarville, Miss., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Kentucky and Pennsylvania (except Bradford and Wellsboro). The purpose of this filing is to eliminate the gateways of points in Alabama and Birmingham, Ala.

(60) *Such plastic pipe, plastic fittings connections, valves, hydrants, extrusions and gaskets,* (except commodities in bulk) as are embraced in materials and supplies (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from the plantsite of Precision Polymers, Inc. at Rockaway, N.J., to Anniston, Bessemer, and Birmingham, Ala. The

purpose of this filing is to eliminate the gateway of points in Tennessee.

(61) *Such plastic pipe, plastic molding, plastic valves, plastic fittings, plastic siding and accessories and materials* used in the installation thereof (except commodities in bulk) as are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, from Williamsport, Md., to points in Georgia, Florida, and points in that part of Louisiana on and east of the Mississippi River, restricted to the transportation of traffic originating at the plantsites and storage facilities of Certain-Teed Products at or near Williamsport, Md. The purpose of this filing is to eliminate the gateways of Bessemer, Anniston, or Birmingham, Ala. or a point within their respective commercial zones.

(62) *Such iron and steel mill products and commodities* the transportation of which because of their size or weight require 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 by reason of size or weight require special equipment as are embraced in materials and supplies (except in bulk) used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes as are also embraced in materials and supplies used in the operation of a foundry, from points in Florida, Georgia, Tennessee, Mississippi, and those points in Louisiana east of the Mississippi River, to Holt, Ala. The purpose of this filing is to eliminate the gateways of Birmingham and Anniston, Ala. or a point in their respective commercial zones.

(63) *Such materials, supplies, and equipment* (except commodities in bulk) *and accessories* used in the operations of a foundry as are embraced in salt and salt products and materials supplies used in the agriculture, water treatment, food processing, wholesale groceries and institutional supply industries, (except in bulk) as also are embraced in iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, meter boxes, from points in the United States (except Alaska and Hawaii), to points in Tennessee, Georgia, Alabama, Florida, Mississippi, and points in that part of Louisiana east of the Mississippi River. The purpose of this filing is to eliminate the gateways of Holt and Anniston, Ala. or any points in their respective commercial zones.

(64) *Such salt and salt products and materials and supplies* used in the agriculture, water treatment, food processing, wholesale groceries and institutional supply industries (except in bulk), as are embraced in materials and supplies used in the operation, production, processing, or transportation of iron and steel articles, cranes, sand hoppers, elevators, conveyors, dust collectors, and meter boxes, and as are also embraced in pipe, fittings, valves, hydrants, gaskets, iron castings, and accessories (except commodities in bulk), from points on the Warrior-Tombigbee-Alabama River System, located in Alabama, to points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateways of points in Alabama and Holt, Ala. or any point in its commercial zone.

No. MC 116544 (Sub-No. 150G), filed May 31, 1974. Applicant: ALTRUK FREIGHT SYSTEM, INC., P.O. Box 636, Carthage, Mo. 64836. Applicant's representative: Sheldon Silverman, 1819 H Street NW., Suite 550, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products* as described in Section B of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209, 272 and 766, (a) from points in Missouri, to points in Iowa and Nebraska and (b) from points in Missouri, to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina. The purpose of this filing is to eliminate the gateway of Carthage, Mo.

(2) *Butter, cheese, eggs* (except frozen, and dressed poultry), from points in Missouri, to Asheville, Charlotte, Greensboro, Raleigh, Winston-Salem, and Fayetteville, N.C. and Memphis, Nashville, Chattanooga, Knoxville, and Johnson City, Tenn. The purpose of this filing is to eliminate the gateway of Independence, Kans.

(3) *Dairy products* as described in Section B of Apendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Missouri, to points in Minnesota. The purpose of this filing is to eliminate the gateway of Carthage, Mo.

(4) *Dairy products* as described in Section B of Apendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 272, from points in Minnesota and Wisconsin, to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina. The purpose of this filing is to eliminate the gateway of Carthage, Mo.

(5) *Butter, cheese, eggs* (except frozen) and dressed poultry (except frozen), from points in Minnesota and Wisconsin, to Asheville, Charlotte, Greensboro, Raleigh, Winston-Salem, and Fayetteville, N.C. and Memphis, Nashville, Chattanooga, Knoxville, and Johnson City, Tenn. The purpose of this filing is to eliminate the gateway of Garnett, Kans.

(6) *Meats, and meat products, and meat by-products*, and articles distributed by meat packinghouses as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Wisconsin and Minneapolis, Minn., to points in Texas and Louisiana. The purpose of this filing is to eliminate the gateway of Dodge City, Kans.

No. MC 119547 (Sub-No. 40G), filed May 31, 1974. Applicant: EDGAR W. LONG, INC., Route 4, Zanesville, Ohio 43701. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay cat litter*, from Wrens, Ga., to points in West Virginia. The purpose of this filing is to eliminate the gateway of Zanesville, Ohio.

No. MC 138264 (Sub-No. 2G), filed June 4, 1974. Applicant: CUSTOM MOTOR FREIGHT, INC., P.O. Box 551, Columbus, Ohio 43216. Applicant's representative: Paul F. Beery, 8 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel products*, from points in Allegheny County, Pa., to points in Ohio on and west of a line beginning at the intersection of Lake Erie and eastern Lorain County line; thence continuing south on the eastern county lines of Lorain, Ashland, Knox, Licking, Fairfield, Pickaway, Ross, Pike, Scioto, and Lawrence County lines to the Ohio River. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio (which is in the Covington, Ky. Commercial zone).

(2) *Iron and steel products*, from points in western Ohio as described in (1) above, to Butler, Pa. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio (which is in the Covington, Ky. Commercial zone).

(3) *Steel and tinplate*, from Wheeling, W. Va., and points within ten miles of Wheeling, W. Va., to points in Ohio on and west of a line beginning at the intersection of Lake Erie and eastern Lorain County line; thence continuing south on the eastern county lines of Lorain, Ashland, Knox, Licking, Fairfield, Pickaway, Ross, Pike, Scioto, and Lawrence County lines to the Ohio River. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio (which is in the Covington, Ky. Commercial zone).

(4) *Machinery and machinery parts* used in plants engaged in the manufactural processing of steel, between points in Allegheny County, Pa., on the one hand, and, on the other, points in Ohio on and west of a line beginning at the intersection of Lake Erie and the eastern Lorain County line; thence continuing south on the eastern county lines of Lorain, Ashland, Knox, Licking, Fairfield, Pickaway, Ross, Pike, Scioto, and Lawrence County lines to the Ohio River. The purpose of this filing is to eliminate the gateway of Newport, Ky.

(5) *Steel and tin plate*, from Weirton and Beechbottom, W. Va., and points within ten miles of Weirton and Beechbottom, W. Va., to points in Ohio on and west of a line beginning at the intersection of Lake Erie and the eastern Lorain County line; thence continuing south on the eastern county lines of Lorain, Ashland, Knox, Licking, Fairfield, Pickaway, Ross, Pike, Scioto, and Lawrence County lines to the Ohio River. The purpose of this filing is to eliminate the gateway of Cincinnati, Ohio (which is in the Covington, Ky., Commercial zone).

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

APRIL 14, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission *within 10 days* from the date of this publication. 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 10788 (Sub-No. E12), filed May 20, 1974. Applicant: TOM'S EXPRESS, INC., 555 West Federal Street, Youngstown, Ohio 44501. Applicant's representative: James R. Grace, P.O. Box 749, Youngstown, Ohio 44501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* and manufactured products thereof, from points in Marshall County, W. Va., to points in New York, Michigan, and to points in that part of Pennsylvania located on and north of a line beginning at the West Virginia-Pennsylvania State line, thence along U.S. Highway 22 to junction Pennsylvania Highway 51, thence along Pennsylvania Highway 51 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateways of Steubenville, Ohio and Weirton, W. Va.

No. MC 13134 (Sub-No. E12), filed February 3, 1975. Applicant: GRANT TRUCKING CO., P.O. Box 266, Oak Hill, Ohio 45656. Applicant's representative: John W. Gee, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay products, refractory products, and refractories*, from Ironton, Ohio to points in Illinois, Indiana, Michigan, New York, Pennsylvania, and to points in that part of West Virginia located on and north of a line beginning at the Ohio-West Virginia State line, thence along West Virginia Highway 18 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction West Virginia Highway 20, thence along West Virginia Highway 20 to junction U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of the plantsite of the Esso-Ramtite Co. near Siloan, Ky.

No. MC 21170 (Sub-No. E79), filed June 4, 1974. Applicant: BOS LINES, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Gene R. Prohuski (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, 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 tank vehicles), restricted to the transportation of such commodities as are dealt in by wholesale, retail, or chain grocery stores, (A) from points in that part of Minnesota on the south and west of the line beginning at the South Dakota-Minnesota State line and extending along Minnesota Highway 7 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota-Iowa State line, to points in that part of Illinois on and south of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 30 to junction Illinois Highway 38, thence along Illinois Highway 38 to Lake Michigan, (except Chicago, Rock Island, Moline, and East Moline, Ill.), (B) from points in that part of Minnesota on the south and west of the line beginning at North Dakota-Minnesota State line and extending along Minnesota Highway 210 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line to points in Illinois on and south of the line beginning at the Illinois-Missouri State line extending along U.S. Highway 67 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction U.S. Highway 150, thence along U.S. Highway 150 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Sioux City, Iowa.

No. MC 29886 (Sub-No. E63), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO. INC., 4000 West Sample Street, South Bend, Indiana 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, the transportation of which because of size or weight require the use of special equipment or special handling, (1) between points in Missouri, on the one hand, and, on the other, those points in Indiana on and north of U.S. Highway 30, and those points in Ohio on and north of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 24 to junction Ohio Highway 15, thence along Ohio Highway 15 to junction Ohio Highway 68, thence along Ohio Highway 68 to junction Ohio Highway 30N, thence along Ohio Highway 30N to junction Ohio Highway 30, thence along Ohio Highway 30 to the Ohio-West Virginia State line (those points in Michigan on and south of a line beginning at Lake Michigan and extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., to junction Business Interstate Highway 96, thence along Interstate Highway 96 to junction U.S. Highway 127, thence along U.S. Highway 127 to the Michigan-Ohio State line)*; (2) Between points in Iowa (except those in Mitchell, Howard, Chickasaw, Fayette, Clayton, Winneshiek, and Allamakee Counties, Iowa), on the one hand, and on the other, points in the lower peninsula of Michigan (same as in (1) above)*; (3) between points in Iowa, on the one hand, and, on the other, points in the lower peninsula of Michigan (except those in Emmet, Cheboygan, and Charlevoix Counties, Mich.), and points in Ohio (except those in Mercer, Auglaize, Shelby, Darke, Miami, Champaign, Clark, Montgomery, Preble, Greene, Fayette, Clinton, Warren, Butler, Hamilton, Clermont, Highland Brown, and Adams Counties, Ohio) (same as in 1 above)*; (4) between points in Iowa (except those in Louisa, Henry, Des Moines, Lee and Van Buren, Counties, Iowa), on the one hand, and, on the other, points in Ohio (same as in 1 above)*; and (5) between points in Pennsylvania on and west of U.S. Highway 219, on the one hand, and, on the other, points in Vermont, Maine, New Hampshire, and those in New York east of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 15 to junction U.S. Highway 20 to the New York-Massachusetts State line (those points in New York on and west of a line beginning at Rochester, N.Y., and extending along U.S. Highway 15 to junction New York Highway 245, thence along New York Highway 245 to junction New York Highway 39, thence along New York Highway 39 to junction U.S. Highway 219, thence along U.S. Highway 219 to the New York-Pennsylvania States line.)* The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 29886 (Sub-No. E64), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO. INC., 4000 West Sample Street, South Bend, Indiana 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Road construction and earth moving machines and equipment (except trailers designed to be drawn by a truck trailer) (1) from points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New Jersey, and New York to points in Wisconsin, Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, Oregon, Washington, and California (those points in New York on and west of a line begin-

ning at Rochester, N.Y., and extending along U.S. Highway 15 to junction New York Highway 245, thence along New York Highway 245 to junction New York Highway 39, thence along New York Highway 39 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction the New York-Pennsylvania State line, and South Bend, Ind.)*; (2) from points in Wisconsin to points in Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama (except those in Colbert and Louderdale Counties), those in Tennessee in and east of Sumner, Davidson, Williamson, Maury, and Giles Counties, Tenn., and the District of Columbia (those points in Michigan on and south of a line beginning at Lake Michigan and extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., to junction Business Interstate Highway 96, thence along Business Interstate Highway 96 to junction U.S. Highway 127, to the Michigan-Ohio State line, and South Bend, Ind.)*.

(3) From points in Missouri to points in Delaware, Maryland, and the District of Columbia (same as in (2) above)*; and (4) from those points in Indiana on and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 36 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Ohio-Indiana State line, to points in Colorado, and those in Nebraska on and north of a line beginning at the Iowa-Nebraska State line and extending along Nebraska Highway 92 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 34/281, thence along U.S. Highway 34/281 to junction U.S. Highway 281, thence along U.S. Highway 281 to Nebraska-Kansas State line (South Bend, Ind.)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 29886 (Sub-No. E65), filed May 16, 1974. Applicant: DALLAS MAVIS FORWARDING CO. INC., 4000 West Sample Street, South Bend, Indiana 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road construction and earth moving machines and equipment* (except trailers designed to be drawn by a truck tractor), (1) from points in Iowa to points in Delaware, Maryland, West Virginia, Virginia, North Carolina, South Carolina, and those in Florida on and east of U.S. Highway 319 (those points in Michigan on, south, and west of a line beginning at Lake Michigan and extending along the northern boundaries of Allegan, Barry, and Eaton Counties, Mich., to junction Business Interstate Highway 96, to junction U.S. Highway 127, to the Michigan-Ohio State line, and South Bend, Ind.)*; (2) from those points in Iowa on and north of Interstate Highway 80 to points in Georgia and those in Tennessee in and east of Macon, Smith, DeKalb, Warren, Sequatchie, and Hamilton Counties, Tenn. (same as in (1) above)*; (3) from points in Ohio and those in Pennsylvania on and west of U.S. Highway 219 to points in Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Montana, Wyoming, Colorado, Idaho, Utah, Arizona, Nevada, Oregon, Washington, California, and Iowa (except those in Louisa, Henry, Des Moines, Lee, Van Buren, Davis, and Appanoose Counties, Iowa) (South Bend, Ind.)*; and (4) from those points in the lower peninsula of Michigan to points in Nebraska, Colorado, Wyoming, Idaho, Oregon, and Washington (South Bend, Ind.)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 29886 (Sub-No. E66), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend. Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road construction and earth moving machines and equipment* (except trailers designed to be drawn by a truck trailer), (1) from points in Michigan to points in Alabama and Florida; (2) from those points in the Lower Peninsula of Michigan and those in the Upper Peninsula of Michigan on and east of U.S. Highway 41 to points in Arizona, Utah, Nevada, and California; (3) from those points in Michigan on and south of U.S. Highway 10 to points in South Dakota, Montana, and those in North Dakota on and south of U.S. Highway 2; (4) from those points in the Upper Peninsula of Michigan and those in the Lower Peninsula of Michigan on and west of a line beginning at the Indiana-Michigan State line and extending along Michigan Highway 66 to junction Michigan Highway 20, thence along Michigan Highway 20 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Interstate Highway 75, thence along Interstate Highway 75 to Lake Michigan, to points in Maryland, Delaware, North Carolina, Tennessee, South Carolina, Georgia, those in Virginia on and east of Interstate Highway 81, and the District of Columbia; (5) from Lake Porter, LaPorte, St. Joseph, and Elkhart Counties, Ind., to points in Delaware, Missouri, West Virginia, Virginia and the District of Columbia. The purpose of this filing is to eliminate the gateway of South Bend, Ind.

No. MC 29886 (Sub-No. E67), filed May 16, 1974. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks, and self-propelled building, construction, and moving machinery*, from points in New York, Vermont, Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, and New Jersey to points in Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Kansas, New Mexico, Colorado, Wyoming, Montana, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, those in Oklahoma (except those in McCurtain County, Okla.), those in Benton, Carroll, Boone, Marion, Baxter, Fulton, Sharp, Izard, Stone, Searcy, Newton, Madison, Washington, Crawford, Franklin, Johnson, Pope, Van Buren, Cleburne, Sebastian, Logan, Conway, Yell, Scott, and Polk Counties, Ark., and those in Texas on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 271 to junction Texas Highway 37, thence along Texas Highway 37 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Texas Highway 19, thence along Texas Highway 19 to junction Interstate Highway 45, thence along Interstate Highway 45 to junction Texas Highway 288, thence along Texas Highway 288 to the Gulf of Mexico (those points in New York on and west of a line beginning at Rochester, N.Y., and extending along U.S. Highway 15 to junction New York Highway 245, thence along New York Highway 245 to junction New York Highway 39, thence along New York Highway 39 to junction U.S. Highway 219, thence along U.S. Highway 219 to the New York-Pennsylvania State line, and Benton Harbor, Mich.)*; and from points in Ohio to points in Minnesota, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, and California (Benton Harbor, Mich.)*; and

(2) *Steam shovels, cranes, crawler-type shovels and cranes, straddle trucks, fork trucks, and self-propelled building, construction, and moving machinery*, the transportation of which because of size or weight require the use of special equipment or special handling, from points in Pennsylvania to points in Minnesota, Iowa, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Washington, Oregon, Nevada, and California, and from those points in Pennsylvania on and east of U.S. Highway 219 to those points in Missouri in, north and west of Pike, Audrain, Callaway, Cole, Miller, Pulaski, Texas, and Howell Counties, Mo., and those in Arkansas on and west of a line beginning at the Arkansas-Missouri State line and extending along U.S. Highway 63 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Interstate Highway 30, thence along Interstate Highway 30 to the Arkansas-Texas State line (Benton Harbor, Mich.)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 66900 (Sub-No. E18), filed May 24, 1974. Applicant: HOUFF TRANSFER, INC., P.O. Box 91, Weyers Cave, Va. 24486. Applicant's representative: Harold G. Hernly Jr., 118 N. St.

Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except commodities in bulk, in tank vehicles, those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Spotsylvania, Carolina, Hanover, Henrico, Powhatan, Amelia, Nottoway, Dinwittie, Brunswick, Lunenburg, and Mecklenburg Counties, Va., on the one hand, and, on the other, points in Virginia within 80 miles of Staunton, Va., that are on and north of Interstate Highway 64 and U.S. Highway 250 (except points in Louisa County, Va.). The purpose of this filing is to eliminate the gateway of points in that part of Virginia within 50 miles of Washington, D.C., and 80 miles of Staunton, Va.

No. MC 66900 (Sub-No. E19), filed May 24, 1974. Applicant: HOUFF TRANSFER, INC., P.O. Box 91, Weyers Cave, Va. 24486. Applicant's representative: Harold G. Hernly Jr., 118 N. St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except uncrated household goods, explosives and dangerous articles, bank bills, currency or money, deeds, drafts, or valuable papers, postage stamps, precious metals or stones or other articles manufactured therefrom, jewelry or other articles of extraordinary value, articles exceeding 20 feet in length or 6 feet in height, or 7 feet in width, except by special arrangements, green hides, slaughter house offal, tanner's fleshings, or any other articles offensive in odor, which are liable to impregnate other freight or cause damage thereto, and livestock, and articles requiring refrigeration, between points within 50 miles of Washington, D.C., including Washington, D.C., on the one hand, and, on the other, points in West Virginia on and north of U.S. Highway 33, restricted against movement between points in Washington, Frederick, Howard, and Montgomery Counties, Md., and Berkeley and Jefferson Counties, W. Va. The purpose of this filing is to eliminate the gateway of points in Clarke County, Va.

No. MC 66900 (Sub-No. E20), filed May 24, 1974. Applicant: HOUFF TRANSFER, INC., P.O. Box 91, Weyers Cave, Va. 24486. Applicant's representative: Harold G. Hernly Jr., 118 N. St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except uncrated household goods, explosives and dangerous articles, bank bills, currency or money, deeds, drafts, or valuable papers, postage stamps, precious metals or stones or other articles manufactured therefrom, jewelry or other articles of extraordinary value, articles exceeding 20 feet in length or 6 feet in height, or 7 feet in width, except by special arrangements, green hides, slaughter house offal, tanner's fleshings, or any other articles offensive in odor, which are liable to impregnate other freight or cause damage thereto, and livestock, and articles requiring refrigeration, between Hagerstown, Md., on the one hand, and, on the other, points in Virginia within 80 miles of Staunton, Va., located on and south of U.S. Highway 33, except Roanoke, Va. The purpose of this filing is to eliminate the gateway of points in Rockingham County, Va.

No. MC 95540 (Sub-No. E281), filed May 3, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, in vehicles equipped with mechanical refrigeration (except in bulk and except meat, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), from those points in Texas on and south of a line beginning at the United States-Mexico International Boundary line and extending along U.S. Highway 40 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction Texas Highway 4, thence along Texas Highway 4 to the Gulf of Mexico, to those points in Missouri on and east of a line beginning at the Arkansas-Missouri State line and extending along Interstate Highway 55 to junction Interstate Highway 244, thence along Interstate Highway 244 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 61, thence along Interstate Highway 61 to junction U.S. Highway 218, thence along U.S. Highway 218 to the Iowa-Missouri State line. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 95540 (Sub-No. E392), filed May 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Detroit, Mich., to those points in New Mexico on and south of a line beginning at the New Mexico-Arizona State line and extending along New Mexico Highway 504 to junction U.S. Highway 550, thence along U.S. Highway 550 to junction New Mexico Highway 17, thence along New Mexico Highway 17 to junction New Mexico Highway 44, thence along New Mexico Highway 44 to junction New Mexico Highway 126, thence along New Mexico Highway 126 to junction New Mexico Highway 4, thence along New Mexico Highway 4 to junction New Mexico Highway 76, thence along New Mexico Highway 76 to junction New Mexico Highway 3, thence along New Mexico Highway 3 to junction New Mexico Highway 21, thence along New Mexico Highway 21 to junction New Mexico Highway 120, thence along New Mexico Highway 120 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 56, thence along U.S. Highway 56 to the New Mexico-Texas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 95540 (Sub-No. E466), filed May 15, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, in vehicles equipped with mechanical refrigeration (except in bulk and except meat, meat products, meat by-products, and articles distributed by meat packinghouses, 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), from those points in Texas on and south of a line beginning at the Texas-Oklahoma State line and extending along Texas Highway 79, thence along Texas Highway 79 to junction U.S. Highway 82/277, thence along U.S. Highway 82/277 to junction Texas Highway 116, thence along Texas Highway 116 to the Texas-New Mexico State line. The purpose of this filing is to eliminate the gateway of Florence, Ala.

No. MC 95540 (Sub-No. E531), filed May 9, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Pittsburgh, Pa., to those points in California on and south of a line beginning at the Pacific Ocean and extending along U.S. Highway 101 to junction California Highway 130, thence along California Highway 130 to junction unnumbered highway, thence along unnumbered highway to junction Interstate Highway 5, thence along Interstate Highway 5 to junction California Highway J18, thence along California Highway J18 to junction California Highway 99, thence along California Highway 99 to junction California Highway 58, thence along California Highway 58 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Interstate Highway 40 to the California-Nevada State line. The purpose of this filing is to eliminate the gateways of Richmond, Va., and Jackson, Tenn.

No. MC 95540 (Sub-No. E585), filed May 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's repre-

sentative: Clyde W. Carver, Suite 212, 5299 Roswell Rd. NE., Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from those points in Delaware, Maryland, and Virginia on the Delmarva Peninsula south of U.S. Highway 50, to those points in Colorado south and west of a line beginning at the Wyoming-Colorado State line and extending along Colorado Highway 125 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 40/287, thence along U.S. Highway 40/287 to the Colorado-Kansas State line. The purpose of this filing is to eliminate the gateways of points in Pike and Spaulding Counties, Ga.

No. MC 95540 (Sub-No. E602), filed May 28, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from those points in California on and south of a line beginning at the Pacific Ocean and extending along U.S. Highway 101 to junction California Highway 36, thence along California Highway 36 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction of unnumbered highway, thence along unnumbered highway to the California-Nevada State line, to Baltimore, Md. The purpose of this filing is to eliminate the gateway of Dothan, Ala.

No. MC 95540 (Sub-No. E658), filed May 11, 1974. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Clyde W. Carver, 5299 Roswell Rd. NE., Suite 212, Atlanta, Ga. 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Butter, cheese, cream* and *milk*, including *concentrated milk*, from those points in Ohio on and east of a line beginning at the Pennsylvania-Ohio State line and extending along U.S. Highway 422 to junction Ohio Highway 7, thence along Ohio Highway 7 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Ohio-Indiana State line, to those points in Texas on and south of a line beginning at the Texas-Louisiana State line and extending along U.S. Highway 190 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction U.S. Highway 190, thence along U.S. Highway 190 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction Interstate Highway 10, thence along Interstate Highway 10 to the U.S.-Mexico International Boundary line. The purpose of this filing is to eliminate the gateway of Doraville, Ga.

No. MC 107295 (Sub-No. E218), filed May 9, 1974. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, Illinois 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board* from Sanbury, Pa., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateway of Truman, Ark., or Kalamazoo, Mich.

No. MC 107295 (Sub-No. E221), filed May 9, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Illinois 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Prefabricated buildings, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, component parts thereof and equipment and materials incidental to the erection and completion of such buildings: (1) from points in Minnesota to points in that part of Alabama in and south of Franklin, Winston, Walker, Jefferson, Shelby, Coosa, Elmore, Macon, and Russell Counties, to points in that part of Georgia in and south of Heard, Coweta, Fayette, Spalding, Butts, Jasper, Putnam, Hancock, Washington, Jefferson, Burke, and Screven Counties, to points in that part of Texas in and east of Hardeman, Foard, Knox, Haskell, Jones, Taylor, Runnels, Tom Green, Schleicher, Sutton, and Val Verde Counties, and to points in Florida, Louisiana, and Mississippi. (The purpose of this filing is to eliminate the gateway of Pine Bluff, Ark.) (2) From points in Minnesota to points in Indiana, Kentucky, Ohio, Tennessee, and the lower peninsula of Michigan. (The purpose of this filing is to eliminate the gateway of points in Illinois.) (3) From points in that part of Minnesota in and north of Norman, Becker, Wadena, Todd, Stearns, Meeker, McLeod, Sibley, Nicollet, Blue Earth, and Faribault Counties to points in that part of Missouri in and east of Putnam, Sullivan, Linn, Chariton, Howard, Cooper, Moniteau, Miller, Pulaski, Texas, and Howell Counties. (The purpose of this filing is to eliminate the gateway of points in Illinois.)

No. MC 107295 (Sub-No. E222), filed May 9, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Illinois 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and when transported in connection with the transportation of such buildings, *component parts* thereof and *equipment* and *materials* incidental to the erection and completion of such buildings, (1) from points in that part of Louisiana in and east of Union, Ouachita, Caldwell, La Salle, Rapides, Evangeline, Acadia, and Vermilion Parishes to points in Arizona. The purpose of this filing is to eliminate the gateway of Pine Bluff, Ark.

No. MC 107295 (Sub-No. E223) filed May 9, 1974. Applicant: PRE-FAB TRANSIT COMPANY, P.O. Box 146, Farmer City, Illinois 61842. Applicant's representative: Dale L. Cox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down, or in sections, including all component parts, materials, supplies, and fixtures, and when shipped with such buildings, *accessories* used in the erection, construction and completion thereof, from points in Iowa to points in Louisiana and to points in that part of Texas located in, east, and south of Bowie, Cass, Marion, Upshur, Smith, Cherokee, Houston, Madison, Grimes, Washington, Austin, Colorado, Lavaca, Gonzales, Guadalupe, Bexar, Medina, Zavala, and Maverick Counties. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC 107515 (Sub-No. E516), filed January 27, 1975. 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: (1) *Meats, meat products, meat by-products*, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Ft. Smith, Ark., to Virginia, and (2) *unfrozen prepared dough*, from Little Rock, Ark., to Virginia, North Carolina and South Carolina. The purpose of this filing is to eliminate the gateways of Atlanta, Ga., and Forest Park, Ga.

No. MC 107515 (Sub-No. E523), filed January 27, 1975. 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 points in Florida to Los Angeles, Calif. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 107515 (Sub-No. E524), filed January 27, 1975. 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 North and South Carolina, to points in Oregon, and Washing-

ton, and points in California on or west of a line beginning at Calexico, Calif., and extending along California Highway 111 to El Centro and extending along California Highway 86 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 395, thence along U.S. Highway 395 to the California-Nevada State line. The purpose of this filing is to eliminate the gateways of Atlanta, Ga., Commercial Zone and Bristol, Tenn., Commercial Zone.

No. MC 107515 (Sub-No. E525), filed January 27, 1975. 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 that part of Alabama on, north and east of a line beginning at the Florida-Alabama State line at Flomaton and extending along U.S. Highway 31 to Atmore, thence along Alabama Highway 21 to junction Alabama Highway 41, thence along Alabama Highway 41 at Monroeville, Ala., to junction Alabama Highway 10, thence along Alabama Highway 10 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 24, thence along Alabama Highway 24 to the Alabama-Mississippi State line to Los Angeles, Calif. The purpose of this filing is to eliminate the gateway of Atlanta, Ga., Commercial Zone.

No. MC 107515 (Sub-No. E528), filed January 27, 1975. 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 plantsites and other facilities utilized by Armour & Co. and Shapiro Packing Co., Augusta, Ga., to Los Angeles, Calif. The purpose of this filing is to eliminate the gateway of Phenix City, Ala., and Atlanta, Ga.

No. MC 107515 (Sub-No. E529), filed January 27, 1975. 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*, except in bulk, in tank vehicles, in vehicles equipped with mechanical refrigeration, from the plant sites of other facilities utilized by Armour & Co., and Shapiro Packing Co., in Augusta, Ga., to all points in Washington and Oregon and those in California on, north and west of a line beginning at Ventura, Calif., and extending along California Highway 126 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction California Highway 138, thence along California Highway 138 to junction California High way 14, thence along California Highway 14 to junction U.S. Highway 395, thence along U.S. Highway 395 to the California-Oregon State line. The purpose of this filing is to eliminate the gateway of Phenix City, Ala., Atlanta, Ga., and Bristol, Va.

No. MC 107515 (Sub-No. E531), filed January 27, 1975. 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, and articles distributed by meat packinghouses*, as described in §§ A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 20, and 766, fresh and frozen, in vehicles equipped with mechanical refrigeration, from Buffalo, N.Y. to points in California and those in Oregon on and west of U.S. Highway 395. The purpose of this filing is to eliminate the gateway of Bristol, Va.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-10389 Filed 4-18-75;8:45 am]

[Notice No. 746]

ASSIGNMENT OF HEARINGS

APRIL 16, 1975.

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. 35940, Investigation into the Lawfulness of Interchange Arrangements between the Bangor and Aroostook Railroad and CP Rail at Brownville Junction, Maine, No. 35987, Maine Central Railroad Company v. Bangor and Aroostook Railroad Company, No. 36013, Penn Central Transportation Company, George P. Baker, Robert W. Blanchette and Richard C. Bond, Trustees v. Bangor and Aroostook Railroad Company, and No. 36013 Sub 1, Boston and Maine Corporation, Robert W. Meserve and Benjamin H. Lacy, Trustees v. Bangor and Aroostook Railroad Company, now assigned for pre-hearing conference on April 29, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 113678 Sub 567, Curtis, Inc., now assigned May 28, 1975 at New Orleans, La.; will be held in West Courtroom, U.S. Court of Appeals, 600 Camp Street.

MC-F-12311, Fast Interstate Express, Inc.—Purchase (Portion)—Harper Truck Line, Inc., now assigned June 2, 1975 at New Orleans, La.; will be held in West Courtroom, U.S. Court of Appeals, 600 Camp Street.

MC 139932, H & M Drayage Brokerage, Inc., now assigned June 4, 1975 at New Orleans, La.; will be held in West Courtroom, U.S. Court of Appeals, 600 Camp Street.

MC 140522, Lumber Transport, Inc., application dismissed.

MC 116273 Sub 185, D & L Transport, Inc., now assigned June 4, 1975, at Chicago, Ill., is cancelled and application is dismissed.

MC 110144 Sub 16, Jack C. Robinson, DBA Robinson Freight Lines, application is dismissed.

MC 117940 Sub 141, Nationwide Carriers, Inc., now being assigned June 4, 1975 (1 day) at Chicago, Illinois, in a hearing room to be designated later.

MC 95540 Sub 920, Watkins Motor Lines, Inc., MC 110563 Sub 149, Coldway Food Express, Inc., MC 110563 Sub 150, Coldway Food Express, Inc., MC 11812 Sub 510, Midwest Coast Transport, Inc., and MC 113678 Sub 576, Curtis, Inc., now being assigned July 29, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 127616 Sub 20, Savage Trucking Company, Inc., now being assigned July 22, 1975, at The Offices of the Interstate Commerce Commission, Washington, D.C.

MC 51146 Sub 396, Schneider Transport, Inc., now being assigned July 22, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 134922 Sub 77, B. J. McAdams, Inc., now assigned May 28, 1975 at Louisville, Kentucky will be held in Room 1052A Federal Bldg. 600 Federal Place.

MC 139639 Sub 1, Freddie E. Smith, dba Freddie's Towing Service, now assigned May 29, 1975 at Louisville, Kentucky, will be held in Room 1052A Federal Bldg., 600 Federal Place.

MC 38320 Sub 13, Central Motor Express, Inc., now assigned June 2, 1975 at Louisville, Kentucky, will be held in Room 1052A Federal Bldg., 600 Federal Place.

MC 129537 Sub 13, Reeves Transportation Co., now being assigned July 7, 1975 (1 week) at Tallahassee, Florida; in a hearing room to be designated later.

MC 128383 Sub 54, Pinto Trucking Service, Inc., now being assigned July 8, 1975 (2 days) at Bangor, Maine; in a hearing room to be designated later.

I & S M 28469, Minimum Charges, Pacific Inland Tariff Bureau, now being assigned May 28, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 123407 Sub 209, Sawyer Transport, Inc., now being assigned July 8, 1975, at Jackson, Miss., (3 days) in a hearing room to be later designated.

MC 136208 Sub 3, Creager Trucking Co., Inc., now being assigned July 8, 1975 (3 days) at Salem, Oregon; in a hearing room to be designated later.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-10390 Filed 4-18-75;8:45 am]

[Ex Parte No. 293 (Sub-No. 4)]

ACQUISITION OF RAIL PROPERTIES

Request for Necessary and Appropriate Information

APRIL 16, 1975.

Consideration by the Commission under the Interstate Commerct Act and the Regional Rail Reorganization Act of 1973 of acquisition of rail lines by profitable carriers; request for necessary and appropriate information concerning acquisitions proposed by the United States Railway Association in its errata to the Preliminary System Plan.

On April 9, 1975, the United States Railway Association filed with the Interstate Commerce Commission a copy of the errata to the Association's Preliminary System Plan, dated February 28, 1975. This errata, which was published in the FEDERAL REGISTER on April 11, 1975, at pages 16377 through 16378, contains various technical corrections as well as numerous additions to Appendix D of the Preliminary System Plan, which Appendix lists coordination projects consisting of acquisitions of rail properties by profitable railroads.

Under section 206(d)(3) of the Regional Rail Reorganization Act of 1973, the Commission is required to make a determination that each proposed acquisition of rail properties by profitable railroads operating in the region contained in the Preliminary System Plan "will be in full accord and comply with the provisions and standards of section 5 of Part I of the Interstate Commerce Act". In response to this directive, the Commission instituted this proceeding and requested that public comment, as well as specific data, be filed by March 28, 1975, with respect to the acquisitions proposed in the Preliminary System Plan. This request appeared in the FEDERAL REGISTER on February 25, 1975, at pages 8152 through 8153.

The publication by the Association of the errata to its preliminary system plan necessitates the further solicitation by the Commission of public comment and data with respect to those line segment and major and minor market extension projects contained in the errata. To assure an adequate data base for thorough consideration of each of the newly proposed acquisitions, information with respect to and comments on each proposal are requested from all interested persons including but not limited to the United States Railway Association, railroads involved in or affected by proposed acquisitions, Amtrak, concerned state, regional and local organizations, shippers served by the rail properties involved, and the Commission's Rail Services Planning Office. An original and 8 copies of all such materials should be filed with the Secretary of the Commission on or before May 9, 1975. It is also requested that separate statements be filed for each individual proposed acquisition, in which parties are interested, and that specific reference be made to each acquisition by USRA project number on the front of all statements.

The newly listed acquisition proposals to the Association's Preliminary System Plan for which the Commission seeks comments are as follows: (1) in Appendix D–1 project MA–9; (2) in Appendix D–2 line segments: 716, 40, 43, 678a, 937, 609, 610/610a, 523, 524, 573, 574/574a, 467, 520a, 31/32, 392a, 395/395a, 436, 455a, 121, 121a, 105/107, 1025, 372a, 496/496a, 518, 538, 551, 640, 643a, and 512/512a; and, (3) in Appendix D–3 Part II projects: CS–5, CS–19, D&H–1, P&S–1, P&S–2, P&S–3, P&S–4, P&W–1, P&W–2, and USRA–4. The full description of these acquisition projects are contained in the Association's notice in the Federal Register of April 11, 1975, at pages 16377 through 16378.

In submitting comments and data to the Commission, it is requested that interested persons supply such information and views in conformity with the guidelines and specific data requested by the Commission in its above-mentioned notice in the FEDERAL REGISTER of February 25, 1975, at pages 8152 through 8153.

Notice of intent of the Interstate Commerce Commission to consider the acquisitions of rail properties contained in the errata to the Preliminary System Plan of the United States Railway Association and to request information from interested parties with regard thereto shall be given to: the United States Railway Association, the Rail Services Planning Office, Amtrak, all Class I and Class II railroads operating in the region and the Governors, Public Utility Commissions and the Departments of Transportation of all states located within the region.

Issued in Washington, D.C., on the 16th day of April, 1975.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-10391 Filed 4-18-75;8:45 am]

federal register

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

FOLLOW THROUGH PROGRAM

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 158—FOLLOW THROUGH PROGRAM

An interim final regulation was published in the FEDERAL REGISTER on June 21, 1974 (39 FR 22342) setting forth an interim final regulation for the Follow Through Program established by section 222(a)(2) of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2809(a)(2). Prior to publication of this interim final regulation, a notice of proposed rule making had been published in the FEDERAL REGISTER on March 5, 1974 (39 FR 8341). Pursuant to section 503 of the Education Amendments of 1972, a public hearing was held on March 28, 1974 in Washington, D.C. In addition, a number of written comments were received and considered. The interim final regulation was published in order that the Commissioner might timely award fiscal year 1974 grants and is applicable only to fiscal year 1974 grants for projects to be carried out in school year 1974–75.

The regulation in this document will be applicable to fiscal year 1975 and succeeding fiscal year grants for projects to be carried out in school years 1975–1976 and succeeding school years and is being published at this time pursuant to section 503 of the Education Amendments of 1972.

A. EFFECTS OF PUB. L. 93–644, THE "COMMUNITY SERVICES ACT"

On January 4, 1975, the Economic Opportunity Act of 1964 was amended by Pub. L. 93–644, the "Community Services Act of 1974." Section 5(b) of Pub. L. 93–644 repealed section 222(a) of the Economic Opportunity Act of 1964, which had been the original statutory authority for Follow Through. Section 8(a) of Pub. L. 93–644 enacted new provisions for Parts A, B, and C of Title V of the Economic Opportunity Act. These new provisions, known as the "Headstart-Follow Through Act", contain new statutory authority for the Headstart and Follow Through programs and general provisions relating thereto. Part B of Title V as amended, extends authorization for Follow Through through Fiscal Year 1977, and transfers legislative authority for administering the program from the Director of Economic Opportunity to the Secretary of Health, Education, and Welfare. In addition, Title V as amended, consolidates under Parts B and C the statutory provisions relating to Follow Through. Pub. L. 93–644 has not changed the basic character of Follow Through from what it was before. Among the changes made by Pub. L. 93–644, which are reflected in the final regulation, are the elimination of any statutory criteria governing geographic allocation of Follow Through funds, and a new provision pertaining to discrimination on the ground of sex. The changes effected by Pub. L. 93–644 are noted in more detail under the heading: "Summary of Comments; Changes in the Regulations", below. The changes made in the final regulation as a result of the enactment of Pub. L. 93–644 are not of a nature so as to require opportunity for public comment, because the changes which are substantive are clearly mandated by the governing statute. The other changes made in the final regulation are not considered to be substantive.

B. EFFECTS OF OFFICE OF EDUCATION GENERAL PROVISIONS REGULATION

The rules and standards set forth in these regulations are those which are unique to the Follow Through program. Other administrative requirements of a general nature which the Follow Through Program shares in common with other programs administered by the Commissioner of Education are covered in the overall Office of Education General Provisions Regulation, published in the FEDERAL REGISTER at 38 FR 30653 (November 6, 1973). (Reference is made in particular to the provisions of Parts 100a and 100c of Title 45 CFR, containing general provisions which are applicable to the Follow Through Program.)

C. SUMMARY OF COMMENTS; CHANGES IN THE REGULATIONS

The following comments were submitted to the Office of Education regarding the proposed regulations, either at the public hearing held on March 28, 1974, or in writing. After the summary of each comment, a response is set forth stating changes which have been made in the regulations, or the reasons why no change is deemed necessary. The comments are arranged in order of the sections of the final regulations. Where the section number in the final regulation differs from that in the proposed rule, the proposed section number is also identified.

1. Sections 158.1 and 158.13(a) *Phase-out of Follow Through. Comment.* Virtually all the comments received expressed opposition to the characterization of Follow Through in § 158.1 of the proposed rule as "experimental," and expressed opposition to the contemplated phase-out of Follow Through as described in § 158.13(a) of the proposed rule. Some commenters urged that Follow Through be expanded to include higher grade levels and more projects.

Response. The language in § 158.13(a) requiring the phase-out of Follow Through has been deleted. It was considered appropriate to delete this language from the permanent regulation because of the uncertainty as to what amount of funds will be made available for support of Follow Through in any given fiscal year.

2. *Comment.* A commenter (referring particularly to §§ 158.1, 158.2, 158.11 and 158.13) questioned whether under the proposed regulations existing Subpart B grantees who are not local educational agencies could lose their grants to local educational agencies.

Response. The answer to this question is implicit in §§ 158.13(a) and 158.15 of the regulation, which provide that those applicants who have satisfactorily operated a Follow Through project during the current fiscal year, and demonstrate the capacity to continue to do so, will continue to receive grants. Those applicants who are not local educational agencies will, like all other applicants, continue to receive grants if they satisfy the criteria of § 158.15.

3. § 158.14 *Geographic Allocation of funds. Comment.* A commenter pointed out that § 158.14(a) of the proposed rule was written so as to require that under Subpart B, available funds (remaining after allotment of an amount not to exceed two percent of the funds to be distributed among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands) shall be allotted among the States according to the relative numbers of low-income children in each State as compared to all States. The commenter read this provision of the proposed rule, as written, as being inconsistent with the provisions of § 158.13(a) and § 158.15 to the effect that Follow Through, as an experimental program, funds only previously funded continuation projects.

4. Section 158.22. *Comment:* A commenter suggested that the word "primary" in § 158.22(b)(3), and the word "all" in § 158.22(c) be emphasized for the purpose of stressing the importance of the type and extent of parental participation referred to in these sections.

Response. The commenter's suggestion has been adopted.

Response. The Community Services Act of 1974 has eliminated geographic allocation criteria for Follow Through. For this reason § 158.14 of the proposed rule has been deleted.

5. Section 158.51 *Comment:* A commenter suggested that a new subsection be added to § 158.51(a), separating and emphasizing the role of parents now contained in § 158.51(a)(2).

Response. The commenter's suggestion has been adopted.

D. OTHER CHANGES

1. Numerous typographical and technical corrections have been made.

2. Section 158.2 has been expanded to include a definition of "Supplementary Training," and a definition of "State" consistent with section 571(2) of the Economic Opportunity Act as enacted by Pub. L. 93–644.

3. Section 158.3(b) has been revised to clarify the requirement that sponsor grantees and local project grantees who are implementing the approaches of these respective sponsors are required to work together for the duration of the project grantee's participation in the program except if the Commissioner determines otherwise.

4. Section 158.13(b) of the proposed rule and the last sentence of § 158.13(c) of the proposed rule have been deleted as unnecessary; the subject matter covered by this material is contained in Part 100a of Title 45 CFR.

5. The form of § 158.15 has been generally revised so as to be more precise

and so as to be more suitable for application to proposed projects which, as explained in § 158.13(a), will be solely continuations of former grants and will not be awarded on a competitive basis. Section 158.15(b)(2) of the notice of proposed rule making has been deleted because it is not suitable as a criterion for projects which are continuations of former grants. Section 158.15(b)(3)(iii) of the notice of proposed rule making has been deleted as being not susceptible of assessment based on an application. Section 158.15(c)(2) of the proposed rule has been deleted because it is covered by § 158.26(a) of the regulation. Sections 158.15 (d)(3) and (g)(1) of the proposed rule have been consolidated into what is now § 158.15(n) of the regulation. Section 158.15(g)(2) of the proposed rule has been deleted because it is covered by § 158.64 of the regulation. The revision of § 158.15 imposes no requirements not contained in the notice of proposed rule making, nor is it considered to prejudice in any other way pending applications for grants.

6. Section 158.19(d) has been expanded to make it clear that the Career Development Committee is under the supervision of the Policy Advisory Committee. Section 158.21 of the proposed rule has been deleted because the subject matter is covered by § 158.19(d).

7. Section 158.23 of the proposed rule, pertaining to nepotism and conflict of interest, has been deleted. A more general provision, prohibiting financial interest on the part of any person employed by or associated with the recipient, is contained in § 100a.250 of this title, and is applicable to all recipients of financial assistance under Follow Through.

8. The criterion in § 158.24(b)(4) of the proposed rule has been deleted because it deals with program operation rather than program effectiveness which is the subject of § 158.24(b). Sections 158.24(b)(6) and 158.24(b)(7) have been modified to state criteria which can be more readily assessed on the basis of a grant application, and which are within the scope of Follow Through.

9. Section 158.26 has been modified so that the training and career development components are each dealt with separately.

10. Section 158.27 of the proposed rule, pertaining to "Relation to other programs and projects" has been deleted. A similar provision applicable to Follow Through is contained in § 100a.275 of this title.

11. The provision in § 158.28 concerning reduction of funds awarded to a local project grantee who is unable or unwilling to serve private school children has been revised. The previous requirement for pro rata reduction of a grant is considered unsatisfactory because experience in other education programs has shown that the cost of the Commissioner's arranging a separate grant or contract for private school children may cost more per private school child than if the same grantee or contractor serves both public and private school children.

12. Sections 158.41 and 158.42 of the proposed rule have been revised to reflect that pursuant to section 553(a)(3) of the Economic Opportunity Act as enacted by Pub. L. 93-644, organizations in addition to State educational agencies may be eligible for technical assistance grants.

13. Section 158.42(a) of the proposed rule has been deleted because the subject matter is covered by Part 100a of Title 45 CFR. Section 158.42(b) of the proposed rule (now § 158.42(a)) has been revised to delete the reference to the OMB poverty index because the OMB poverty index for States does not reflect Puerto Rico as a State. A more suitable criterion for determining funding levels has been substituted.

14. Section 158.51(c) of the proposed rule has been deleted. Pursuant to Pub. L. 93-644, the provisions of the Economic Opportunity Act relating to the percentage of program funds to be used for sponsor grants, and the provisions relating to approval of new pilot or demonstration projects by local agencies or government bodies, no longer apply to Follow Through. The provisions of § 158.51 of the proposed rule relating to funding priorities are covered by § 158.52 of the final regulation.

15. Section 158.52 of the proposed rule has been revised so as to give a better organized presentation of the criteria, and to make clear that the Commissioner will fund only continuation grants under Subpart D.

16. The caption of § 158.67 of the proposed rule has been changed to more accurately describe the content of that section. The last sentence of § 158.67 has been deleted because, pursuant to Pub. L. 93-644, the provision of the Economic Opportunity Act on which it was based no longer applies to Follow Through.

17. In § 158.68, subparagraphs (2) and (3) of paragraph (a), and paragraph (b) of the proposed rule have been deleted because pursuant to Pub. L. 93-644, the provisions of the Economic Opportunity Act on which they were based no longer apply to Follow Through.

18. Sections 158.81, 158.82, and 158.83 of the proposed rule have been deleted because, pursuant to Pub. L. 93-644, the provisions of the Economic Opportunity Act on which they were based no longer apply to Follow Through. The subject matter of these sections is now covered in Part 100a of Title 45 CFR.

19. Section 158.84 of the proposed rule has been deleted, because the subject matter of this section is covered by Part 100a of Title 45 CFR.

20. Three new sections have been added: §§ 158.85, 158.86, and 158.87, dealing with nondiscrimination, limitation with respect to certain unlawful activities, and political activities, respectively. These sections set forth the applicable provisions of sections 574, 575, and 576 of the Economic Opportunity Act, as enacted by Pub. L. 93-644.

After consideration of all comments, Part 158 of Title 45 of the Code of Federal Regulations is revised as set forth below.

Effective date. Pursuant to section 431(d) of the General Education Provisions Act, as amended, (20 U.S.C. 1232 (d)) this regulation has been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER (April 21, 1975). That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission (June 5, 1975), subject to the provisions therein concerning Congressional action and adjournment.

(Catalog of Federal Domestic Assistance No. 13.433, Follow Through Program)

Dated: February 25, 1975.

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

Approved: April 11, 1975.

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

Part 158 of Title 45 of the Code of Federal Regulations is revised to read as follows:

Subpart A—Purpose and Definitions

Subpart B—Grants for Local Follow Through Projects

Subpart C—Grants and Contracts for Technical Assistance

Subpart D—Grants and Contracts for Demonstration

Subpart E—Federal Financial Participation

Subpart F—General Provisions

AUTHORITY: Title V, Pub. L. 88-452, 78 Stat. 516, as amended by Pub. L. 93-644, sec. 8(a), 88 Stat. 2306 (42 U.S.C. 2929 et seq.) except as otherwise noted.

Subpart A—Purpose and Definitions

§ 158.1 Program purpose.

The Follow Through Program implemented by these regulations is an experimental community services program designed to assist, in a research setting, the overall development of children enrolled in kindergarten through third grade from low-income families, and to amplify the educational gains made by such children in Head Start and other similar quality preschool programs by (a) implementing innovative educational approaches, (b) providing comprehensive services and special activities in the areas of physical and mental health, social services, nutrition, and such other areas which supplement basic services already available within the school system, (c) conducting the program in a context of effective community service and parental involvement, and (d) providing documentation on those models which are found to be effective.

(Economic Opportunity Act, Title V, sec. 551, 554 (Pub. L. 93-644 sec. 8(a)))

§ 158.2 Definitions.

As used in this part:

"Act" means the Economic Opportunity Act of 1964, P.L. 88-452, (42 U.S.C. 2701 et seq.) as amended.

"Follow Through children" means all children in public or private school who have been enrolled in a Follow Through project in accordance with § 158.12.

"Follow Through parents" means all parents of children enrolled (or to be enrolled) in a Follow Through project, including the parents of private school children participating in the project.

"Head Start agency" means an organization funded in whole or in part by the Office of Child Development, DHEW, pursuant to Title V, Part A of the Act.

(Economic Opportunity Act, Title V, sec. 514 (Pub. L. 93-644 sec. 8(a)))

"Inservice training" means such specialized training as may be required or recommended for project staff during the course of employment in the Follow Through project.

"Local educational agency" means a public school board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"Low-income children" or "low-income person" means children or persons from families whose annual income falls at or below the official poverty line as defined by the Office of Management and Budget and as revised periodically by the Department of Health, Education, and Welfare pursuant to section 625 of the Act.

"Paraprofessional" means a person who does not have a baccalaureate or equivalent degree of certification, but who directly assists persons in the performance of educational, social service, medical, or other duties of a professional nature in a Follow Through project, (e.g., teacher's aide, nurse's aide, or social worker aide).

"Preservice training" means workshops, courses, seminars, and other forms of specialized training which precede, and are required or recommended for, employment as a member of a Follow Through project staff.

"Primary grades" means grades 1 through 3 inclusive.

"Project sponsor" means a college, university, regional education laboratory, or other agency, organization or institution which receives a grant or contract to undertake some or all of the activities listed in § 158.51 and which maintains a contractual relationship with one or more local Follow Through projects for the purpose of conducting such activities in conjunction with such projects.

"Project area" means the local community or the smaller geographic area within such community (defined by school attendance zones or other similar neighborhood boundaries) in which a Follow Through project operates.

"Project staff" means all persons who work (full time or part time) directly in the Follow Through project, either on public or private school premises, whether or not such persons are paid with funds made available under the Act.

"Rural" as applied to a geographic area, means an area which is not included within a Standard Metropolitan Statistical Area (as defined by the U.S. Bureau of Census) and which is not within or coterminous with a city, town, borough, or village or other subcounty political unit, the population of which exceeds 2,500.

"State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(Economic Opportunity Act, Title V, sec. 571(2) (Pub. L. 93-644 sec. 8(a)))

"State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or State law.

"Supplementary training" means the training of paraprofessionals and nonprofessionals in programs leading to college level degrees, particularly in the field of early childhood education.

(Economic Opportunity Act, Title V, sec. 551(a); 553(a)(1)(3) (Pub. L. 93-644 sec. 8(a)))

§ 158.3 Planned variation.

(a) Follow Through project grants are made to local educational agencies and other public or non-profit private agencies, organizations, or institutions in order to explore the effects of a number of promising approaches to the education of children from low-income families in the early elementary grades. Most grantees must agree to carry out the project in cooperation with project sponsors who have developed such approaches in affiliation with the U.S. Office of Education.

(b) In order to assess the effectiveness of each approach, evaluation data is being collected by the U.S. Office of Education. Because the collection of data will continue for a number of years, project and sponsor grantees are required to work together in the development and implementation of the sponsor's approach for the period of their participation in the Follow Through program except if the Commissioner determines otherwise.

(Economic Opportunity Act, Title V, secs. 551, 553(a) (1), (2) (Pub. L. 93-644 sec. 8(a)))

Subpart B—Grants for Local Follow Through Projects

ELIGIBILITY REQUIREMENTS AND PROCEDURES

§ 158.11 Eligible applicants.

(a) Except as provided in paragraph (b) of this section, the Commissioner will provide financial assistance under this subpart, in the form of grants, only to local educational agencies.

(b) Whenever the Commissioner determines that (1) a local educational agency receiving assistance under paragraph (a) of this section is unable or unwilling to serve private school children as required by § 158.28 or (2) it is otherwise necessary in order to best fulfill the purposes of Follow Through as set forth in § 158.1, he may provide financial assistance to be used for this purpose to a Head Start agency or other public or appropriate non-profit private agency, organization, or institution.

(Economic Opportunity Act, Title V, section 551(a)(1), (2) (Pub. L. 93-644 sec. 8(a)))

§ 158.12 Eligible children.

(a) *Low-income children.* Subject to the provisions of paragraph (b) of this section, only low-income children enrolled in the early elementary grades may participate in projects funded under this subpart. At least 50 percent of the children in each entering class shall be children who have previously partici-

pated in a full-year Head Start or similar quality preschool program and who were low-income children at the time of enrollment in such preschool program; except that the Commissioner may reduce this percentage requirement in special cases where he determines that its enforcement would prevent the most effective use of Follow Through funds (e.g., where the grantee is implementing a racial desegregation plant).

(b) *Non-low-income children.* If the Commissioner determines (1) that participation in the project of children from diverse socio-economic backgrounds would enhance the development of the low-income children to be served and would benefit the community in which the project is located, or (2) that such socio-economic diversity in a particular project will produce evidence concerning how best to fullfill the purposes of Follow Through as set forth in § 158.1, he may require or permit the inclusion of a specified percentage of children other than low-income children in the project. The inclusion of such other children in a project shall not in any case dilute or interfere with the services designed for low-income children. In order to prevent such dilution, families of such other children may be required to pay (to the extent that the family's financial situation makes payment appropriate), or have payment made in their behalf from some other source, e.g., by the grantee, for all or part of the identifiable costs of the services such children receive.

(c) *Procedures for selection.* Agencies proposing to operate or continue projects under this subpart shall establish procedures for identification and selection of eligible children which comply with the requirements of this section and shall set forth such procedures in the project proposal. Such procedures shall assure that every reasonable effort will be made (1) to serve first the poorest children enrolled under paragraph (a) of this section, and (2) to determine an equitable basis on which payment shall be made with respect to children enrolled under paragraph (b) of this section.

(d) *Records.* Each project shall maintain records establishing that its identification and selection of eligible children complied with the requirements in this section.

(Economic Opportunity Act, Title V, secs. 551(a), 553(a) (1), (2) (Pub. L. 93-644 sec. 8(a)))

§ 158.13 Selection of grantees and application procedures.

(a) In order to provide the necessary continuity for evaluation of the planned variation approaches provided for in § 158.3, grants will be given only to applicants who are successfully conducting Follow Through projects during the current fiscal year and who demonstrate the capability to continue to so operate projects in accordance with the planned variation approach.

(b) Project proposals will be disposed of by the Commissioner in accordance with § 100a.27 of this chapter, and negotiated in a process of consultation with the applicant and low-income parents of Follow Through children as needed.

(Economic Opportunity Act, Title V, secs. 551 (a) (1), (3); 553(a)(1) (Pub. L. 93-644 sec. 8(a)))

§ 158.15 Criteria for refunding of projects.

The Commissioner shall, in accordance with the provisions of § 158.13(b), the allotments made under § 158.14, and the criteria set forth in § 100a.26(b) of this chapter, renew funding for projects under this subpart on the basis that the applicant has satisfactorily operated a federally-funded Follow Through project in the immediate prior year in accordance with the purposes of the program as set forth in § 158.1. In order to determine whether the applicant has satisfactorily operated a Follow Through project in the immediate prior year in accordance with the purposes of the program as set forth in § 158.1, the following criteria shall be used (each of the criteria shall be rated on the following scale: unsatisfactory, satisfactory, above average, outstanding):

(a) The proportion of children enrolled in the schools of the project who are low-income according to the official poverty line as defined by the Office of Management and Budget;

(b) The proportion of children enrolled in the schools of the project who are graduates of Head Start or similar preschool programs as required by § 158.12(a);

(c) The provision for parental and community involvement as required by § 158.26(b);

(d) The participation of Follow Through parents in the development and operation of the project as required by § 158.19 (a) and (d);

(e) The role of the Policy Advisory Committee in recommending the filling of staff positions as required by § 158.19 (d) (3) and (4);

(f) The extent to which the membership of the Policy Advisory Committee is composed of low-income parents elected by such parents as required by § 158.19(b);

(g) The extent to which the Policy Advisory Committee participates in the decision-making process in respect to important aspects of the project in accordance with § 158.19(d);

(h) The extent to which priority is given to low-income parents in the employment of nonprofessionals and paraprofessionals as required by § 158.20;

(i) If appropriate, the extent to which the supplementary training program is serving nonprofessional and paraprofessional staff of the project in accordance with § 158.26(h)(3);

(j) The role of the Career Development Committee as required by § 158.19(d)(9);

(k) The provision for staff training as required by § 158.26(g);

(l) The extent to which the instructional component is implemented as required by § 158.26(a);

(m) The provision of comprehensive services as required by § 158.26:

(1) Nutrition;
(2) Medical and dental services;
(3) Social services;
(4) Psychological services;
(5) Career development;
(6) Coordination of comprehensive services.

(n) The utilization and/or the coordination of other resources and programs with the project in accordance with § 158.27; and

(o) The extent to which the evaluations conducted to date indicate program effectiveness according to criteria such as those defined by § 158.24(b).

(Economic Opportunity Act, Title V, secs. 551(a) (1), (3), 554(a) (Pub. L. 93-644 sec. 8(a)))

§ 158.16 Financial support of projects.

Project activities conducted under this subpart shall be supported through the following combination of resources: (a) the normal effort (in funds and services) which the grantee or contractor is required to maintain under § 158.67 and upon which the project builds, (b) the Federal funds appropriated under the Act and distributed under this subpart, and (c) the non-Federal contribution specified in § 158.64.

(Economic Opportunity Act, Title V, secs. 551, 552 (b), (c) (Pub. L. 93-644 sec. 8(a)))

Project Management

§ 158.18 Project coordinator.

(a) *Position.* Each grantee receiving funds under this subpart shall, with the approval of the Policy Advisory Committee described in § 158.19, appoint a project coordinator to be responsible for overall project management. The position of project coordinator shall be a full-time position, unless the Commissioner, in individual cases, specifies otherwise.

(b) *Duties.* The project coordinator's duties shall include: (1) supervising all project staff; (2) serving as liaison between the project and Federal, regional, State, and local agencies involved in the Follow Through program; (3) working with the program sponsor to implement the program approach selected; (4) attending all relevant Follow Through meetings, workshops, and training sessions sponsored by the Commissioner or by the project's program sponsor; (5) ensuring that project components and activities are interrelated so that children are not served in a fragmented manner; and (6) maintaining communication and cooperation among the program sponsor, Follow Through parents, Policy Advisory Committee members, project staff, administrative and other school staff, and the various community agencies and organizations which serve low-income persons.

(Economic Opportunity Act, Title V, sec. 551 (1), (2) (Pub. L. 93-644 sec. 8(a)))

§ 158.19 Policy Advisory Committee.

(a) *Purpose.* Each grantee or shall, upon the identification of Follow Through project children, establish a Policy Advisory Committee, selected in

accordance with paragraphs (b) and (c) of this section, to assist with the planning and operation of project activities and to actively participate in the decisionmaking process concerning such activities.

(b) *Membership.* (1) More than one-half of the Policy Advisory Committee members shall be low-income Follow Through parents who are elected (or re-elected) by such parents in elections held at least annually.

(2) The remaining members shall be chosen by the parent members, elected under paragraph (b)(1) of this section, from among the various persons and representatives of agencies and organizations in the community who have manifested concern in the interests of low-income persons.

(3) In no case shall an officer of the Policy Advisory Committee serve for more than two consecutive years as an officer.

(c) *Advisors.* At the request of the Policy Advisory Committee, elected or appointed officials and employees of the local educational agency (including project staff) in whose jurisdiction the project is located and any group contracted to work for such agency may serve in an advisory capacity to the Committee, but shall in no case have the right to vote.

(d) *Duties.* The Policy Advisory Committee's duties shall include: (1) developing by-laws which define the purposes and procedures of the Committee; (2) helping to develop all components of the project proposal and approving them in their final form; (3) assisting in the development of criteria for selection of professional staff and recommending the selection of such staff; (4) assisting in the development of criteria for the selection of nonprofessional and paraprofessional staff, exercising primary responsibility in recommending the selection of such staff for participation in the project and for participation in supplementary training programs which the Commissioner may from time to time sponsor; (5) exercising the primary role in developing criteria for selection and recruiting of eligible children which are required by § 158.12; (6) contributing to the continued effectiveness of the project coordinator; (7) establishing and operating a procedure of petition and discussion under which complaints of parents and other interested persons can be promptly and fairly considered; (8) mobilizing community resources and securing the active participation of Follow Through parents in the projects (9) supervising a Career Development Committee to provide direction and initiative for the career development component as required by § 158.26(h). The members of the Career Development Committee shall be appointed by the Policy Advisory Committee from among the following groups in numbers adequate to assure their effective representation: (i) the low-income Follow Through parents, including low-income parent members of the Policy Advisory Committee, (ii) para-professionals and non-professionals working in the project, and (iii) the professional members of the project staff. The Career Development Committee's duties shall include: (iv) devising a career development plan in accordance with § 158.26(h), (v) assisting the Policy Advisory Committee to fulfill its responsibilities under subparagraph (4) of this paragraph for selecting paraprofessionals and nonprofessionals to participate in supplementary training programs which the Commissioner may from time to time sponsor.

(e) *Funding.* (1) In order to facilitate the functioning of the Policy Advisory Committee, (i) the committee shall submit a proposed budget of its projected operational costs for each budget period to the grantee for inclusion in the grantee's application, and on the basis of such budget and the negotiations held pursuant to § 158.13 (b), and in accordance with local laws and regulations, shall at the beginning of each grant period allocate to the Committee a sum sufficient to allow it effectively to fulfill its responsibilities under paragraph (d) of this section.

(2) Funds allocated to the Policy Advisory Committee under paragraph (e)(1) of this section shall not be used for: (i) the purchase of classroom equipment, (ii) classroom instructional purposes, (iii) personal loans or expenditures.

(3) Policy Advisory Committee members may be compensated for attending a negotiation workshop, special conference or board of education meeting directly related to the Follow Through project at a rate not less than the Federal minimum wage nor more than the wages he would otherwise earn during such time, but in no event shall payments be made to members if no wages are actually lost.

(Economic Opportunity Act, Title V, secs. 551(a)(3), 554(a) (Pub. L. 93-644 sec. 8(a)); 20 U.S.C. 1231d)

§ 158.20 Employment of low-income persons.

Whenever an opening exists in project staff positions for nonprofessionals or paraprofessionals, the grantee shall actively solicit applications from low-income persons and give preference to such persons in hiring. The highest priority shall be accorded to low-income persons who are parents of Follow Through children. The grantee shall establish hiring procedures which assure that the Policy Advisory Committee will be primarily responsible for recommending the filling of nonprofessional and paraprofessional positions in accordance with § 158.19(d)(3).

(Economic Opportunity Act, Title V, sec. 554(a) (Pub. L. 93-644 sec. 8(a).)

§ 158.22 Parent-implemented projects.

(a) *Eligible projects.* The Commissioner may designate certain of the projects funded under this subpart as parent-implemented projects. Both projects operated directly by nonprofit, private agencies or organizations constituted by parent groups to whom grants are awarded under § 158.11(b)(2) and projects operated by other grantees who delegate significant operating authority to a parent group are eligible for such a designation.

(b) *Functions of parents.* In a parent-implemented project, the parents (as defined in paragraph (c) of this section) shall assume at least the following functions in regard to project management: (1) All functions of the Policy Advisory Committee set forth in § 158.19(d); (2) all functions of the Career Development Committee set forth in § 158.19(d)(9); (3) primary responsibility and authority for selecting the project coordinator and other project staff.

(c) *Definition.* For purposes of this section, "parents" means all parents of children enrolled or to be enrolled in the project or their duly elected representatives, except that, where the grantee is itself a parent group, it may choose to define "parents" to include the entire body of parents which it represents. In the latter case, the Follow Through parents shall be equitably represented on all boards or committees performing the functions specified in paragraph (b) of this section.

(Economic Opportunity Act, Title V, sec. 551(a)(3) (Pub. L. 93-644 sec. 8(a)); 20 U.S.C. 1231d)

§ 158.24 Evaluation of program effectiveness.

(a) *General.* Grantees shall participate to the extent requested by the Commissioner in periodic evaluations of the Follow Through Program. Grantees shall comply with all evaluation procedures that the Commissioner from time to time may require unless, after consultation with a particular grantee, he determines that compliance with one or more such procedures would not be in the best interest of the project. Such procedures shall include making available upon request any records or other information which may be reasonably necessary to the conduct of evaluation activities. General program evaluation data may be collected through testing of children, interviews, and questionnaires.

(b) *Evaluation criteria.* In the evaluations referred to in the preceding paragraph, program effectiveness will be evaluated on the basis of criteria established by the Commissioner, such as:

(1) Comparisons of cognitive and affective development of the children served with non-Follow Through children;

(2) Comparison of the cognitive and affective development of Follow Through children, who participated in Head Start and other quality preschool programs with the cognitive and affective development of Follow Through children who did not;

(3) Extent of parent involvement in the project, including participation in the decision-making process and participation in the classroom as paid employees or volunteers, and the effect of the project upon parental attitudes concerning the school and education in general;

(4) Extent of medical and dental care, of psychological services, and of social services available to low-income Follow Through children;

(5) Evidence of changes in school programs and in institutional rules and practices which increase the responsiveness of the educational system to low-income children and their parents;

(6) Evidence of positive changes in attitudes of program participants towards themselves and the community; and

(7) Evidence of coordination of community services (e.g., medical services) with the participating schools and their responsiveness to the needs of low-income persons.

(Economic Opportunity Act, Title V, sec. 551(a) (1), (3), 553(a)(2) (Pub. L. 93-644 sec. 8(a)))

PROJECT IMPLEMENTATION

§ 158.25 Project design and development.

(a) *Services and activities.* Each Follow Through project assisted under this subpart shall be designed to fulfill the special purposes of Follow Through set forth in § 158.1 by providing services and activities which focus upon all aspects of child learning and development. The services and activities incorporated into the project proposal shall include all of the program components set forth in § 158.26.

(Economic Opportunity Act, Title V, sec. 551(a) (1), (3))

(b) *Coordination.* In designing and developing the project, the grantee shall provide for coordination among the various program components set forth in § 158.26 to prevent fragmentation of services, and for coordination of each such program component with related community agencies and resources to prevent duplication of existing services. Each program component shall be developed with the participation of (1) the Policy Advisory Committee established under § 158.19; (2) interested community agencies and organizations, including the Head Start agency; and (3) to the extent appropriate, the project's program sponsor.

(c) *Policy Advisory Committee approval.* No program proposal shall be approved or funded by the Commissioner without the prior approval of all program components by the Policy Advisory Committee, unless the Commissioner determines that the basis of the Committee's refusal to approve the proposal is inconsistent with these regulations.

(Economic Opportunity Act, Title V, sec. 551(a)(3) (Pub. L. 93-644 sec. 8(a)); 20 U.S.C. 1231d)

§ 158.26 Program components.

Unless the Commissioner in particular cases specifies otherwise, each Follow Through project shall include at least the following program components:

(a) An instructional component which, generally through association with a program sponsor, implements a particular innovative approach to the education and development of low-income children;

(b) A parent and community involvement component which actively involves parents and other interested persons in the community in all aspects of the project through such activities as (1) participation in the work of the Policy Advisory Committee and other parent groups; (2) participation in the classroom as observers or volunteers, or as paid employees under § 158.20; (3) regular home visits and other contacts initiated by project staff; and (4) participation in educational and community activities developed through other program components;

(c) A health component, developed with the direct assistance of health professionals, which responds to both short- and long-range needs by providing (1) screening, referral, and corrective treatment services for all low-income Follow Through children; (2) preventive activities such as health education for Follow Through children and their families; and (3) activities designed to encourage and improve related community health services and maximum opportunities for their continuation even after conclusion of the Follow Through project;

(d) A social services component designed to aid families of low-income Follow Through children in identifying and solving family problems and to assist in the development of more effective community social services for low-income families.

(e) A guidance and psychological services component which (to the extent consistent with the program approach of the project's program sponsor) utilizes trained psychological personnel to assist the psychological development of low-income Follow Through children through (1) classroom observation followed by consultation with teachers, teacher aides, and other staff members; (2) staff development of pertinent Follow Through personnel; (3) work with Follow Through parents; and (4) testing and appropriate follow-up for Follow Through children where necessary.

(f) A nutrition component which provides for (1) a daily type-A lunch (as defined by the U.S. Department of Agriculture); (2) breakfast and snack where necessary; (3) nutrition education and counseling for Follow Through children and their parents; and (4) training in nutrition for Follow Through staff members;

(g) A training component which includes: (1) pre-service and in-service training, developed with the assistance of the project sponsor, for the Follow Through staff members including parent coordinator, social services aides and other ancillary personnel, (2) orientation activities for non-Follow Through personnel who have responsibilities relating to the Follow Through project.

(h) A career development component for paraprofessionals and nonprofessionals coordinated with other education opportunities which includes: (1) the implementation of a career development plan which is established for the purpose of providing for increases in both salary and job responsibility on the basis of job experience, academic background, and other relevant factors; (2) the provision for guidance and counseling in career development; (3) the provision of supplementary training; and (4) the provision of other education opportunities through such means as high school equivalency programs and vocational training programs.

(Economic Opportunity Act, Title V, sec. 551(a) (1), (3) (Pub. L. 93-644 sec. 8(a)))

PARTICIPATION OF PRIVATE SCHOOL CHILDREN

§ 158.28 Numbers of private school children to be served.

(a) Local educational agencies receiving assistance under this subpart, and other agencies, organizations, and institutions receiving such assistance for projects in which one or more local educational agencies participate, shall serve public and private school children in equitable proportions. Such proportions shall approximate the relative proportions of low-income children enrolled at the entering grade level served by the project in the public and private schools in the local education agency's school district who are graduates of a full-year Head Start or similar quality pre-school program.

(b) If a grantee is unwilling or unable to serve public and private school children in equitable proportions as required by paragraph (a) of this section, the Commissioner may appropriately reduce the funds to which such grantee would otherwise be entitled and award another contract or grant under § 158.11(b) for the purpose of serving that proportion of private school children which such grantee would otherwise have served. In determining the amount to be withheld from the latter grantee, the Commissioner will take into account (1) the number of private school children who are excluded from effective participation in the Follow Through project, and who, except for such exclusion, might reasonably have been expected to participate; (2) the number of staff that would reasonably have been required to serve such children, and (3) the nature and extent of services being provided to public school children by the project from which private school children are excluded.

(Economic Opportunity Act, Title V, sec. 551(a) (1), (2) (Pub. L. 93-644 sec. 8(a)))

§ 158.29 Manner of service.

(a) Private school children may be served pursuant to § 158.28: (1) on public school premises through dual enrollment or shared-time programs; (2) on private school premises, in accordance with § 158.30, or (3) on a neutral site donated or rented for use in the project. If private school children are served under items (2) or (3) of this paragraph, they shall be concentrated in as few sites as possible, and such sites shall be located, to the extent practical, in a

public school project area or in reasonable proximity thereto.

(b) The grantee shall involve private school officials and the parents of private school children in planning all phases of the project, including the selection of the method for serving private school children under paragraph (a) of this section and the selection of the program sponsor.

(c) Private school children shall participate to the maximum feasible extent in all phases of the project, and services provided for such children shall be comparable to those provided for public school children in terms of quality, scope, and opportunity.

(d) Any project to be carried out in public facilities and involving a joint participation of children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid classes which are separated by school enrollment or religious affiliation of the children.

(e) The applicant shall be required to inform the Commissioner of the number of private school children to be served and the manner in which and places at which they will be served. If the services differ in type or extent from those to be provided for public school children, the project application shall indicate how and why such services will differ. Letters from private school officials describing their participation in the planning of the project shall be attached to the project proposal.

(Economic Opportunity Act, Title V, sec. 551 (a) (1), (2) (Pub. L. 93-644 sec. 8(a))

§ 158.30 Provision of services.

(a) Services shall be provided to private school children by the grantee, directly or through a third party contractor (other than the private school whose children are served). In providing such services, the grantee shall: (1) maintain custody of funds and exercise control over their expenditure, (2) retain title to equipment, textbooks, and other materials acquired with project funds or donated (by other than the private school) as a non-Federal contribution to the project, (3) ensure that project funds are not used to provide services for private school children which would, in the absence of the project, have been provided by the private school in which such children are enrolled and (4) ensure that none of the Follow Through services received by private school children in any way involve religious worship or instruction or religious proselytization.

(b) In complying with paragraph (a) (4) of this section, the grantee shall establish procedures for insuring compliance with the following requirements:

(1) Facilities renovated or rented for use in the project shall be devoid of sectarian or religious symbols, decoration, or other identification. Other facilities used primarily for the project shall, to the maximum feasible extent, also be devoid of sectarian or religious symbols, decoration, or other identification;

(2) Textbooks and other instructional materials used in the project shall be only those which are used in, or approved by an appropriate State or local educational agency or authority for use in, the public schools, or which have been specifically recommended by the program sponsor; and

(3) Project funds shall not be used to pay the salaries of teachers or other employees of a private sectarian school.

(c) The grantee shall describe in the project proposal the method by which it will provide services to private school children in compliance with the requirements of this section.

(Economic Opportunity, Title V, sec. 551(a) (1), (2) (Pub. L. 93-644 Sec. 8(a)); *Lemon v Kurtzman*, 403 U.S. 602 (1971))

Subpart C—Grants and Contracts for Technical Assistance

§ 158.41 Grants and contracts with State educational agencies and other appropriate organizations for technical assistance and leadership.

The Commissioner may make grants to State educational agencies and contracts with other appropriate agencies, organizations, or institutions to enable them to provide technical assistance to local Follow Through projects and otherwise exercise leadership in regard to Follow Through activities in the State. Activities undertaken for such purpose may include, but need not be limited to, familiarizing State educational agency personnel with the Follow Through program and with the projects in their States through on-site visits and other means; promoting the coordination of Follow Through with other State and local programs having similar objectives; assisting local projects to identify and make maximum use of available public and private resources which can contribute to the development of comprehensive projects; assisting local projects to improve school-community relationships; assisting local projects to evaluate project activities and to disseminate information regarding project activities and their evaluation; and assisting local projects with staff training and developmental programs.

(Economic Opportunity Act, Title V, Sec. 553 (a)(3) (Pub. L. 93-644 Sec. 8(a)))

§ 158.42 Criteria for approval and funding of grants or contracts.

(a) *Level of funding.* The applications from State educational agencies and other appropriate organization under this section to enable them to provide technical assistance to local Follow Through projects and otherwise exercise leadership in regard to Follow Through activities in their States shall be for an amount not to exceed an amount of funds representing a total of (1) $4,000; which is the base rate; (2) $2,000 for each Follow Through project expected to be in operation during the period for which the application is being made; and (3) an amount arrived at by multiplying the relative incidence of children from low-income families in the State by the amount remaining after subtraction of the total amount computed for all States under (1) and (2) from the total amount available for funding grants and contracts under this subpart.

(b) *Application approval criteria.* The Commissioner will select and fund projects eligible under this section (subject to the provisions of paragraph (a) and (b) of this section in accordance with the following criteria:

(1) *Programmatic.* (Unsatisfactory, satisfactory, above average, outstanding).

(i) The extent to which the applicant has shown or will show familiarity with the Follow Through program and the projects in its State through site visits and other means;

(ii) the extent to which the applicant will promote coordination of Follow Through with other State and local programs having similar objectives;

(iii) the extent to which the applicant will assist local projects in identifying and making the maximum use of available public and private resources which can contribute to the development of comprehensive projects;

(iv) the extent to which the applicant will assist local projects in improving parent-school-community relationships;

(v) the extent to which the applicant will assist local projects in evaluating project activities and disseminating information regarding project activities and their evaluation;

(vi) the extent to which the applicant will assist local projects with staff training and development programs.

(2) *Organizational.* (Unsatisfactory, satisfactory, above average, outstanding). The extent to which the staffing for administering the grant is adequate to carry out the objectives.

(3) *Management.* (Unsatisfactory, satisfactory, above average, outstanding). The extent to which the applicant will seek information from the local project sites to meet their project needs for technical assistance.

(Economic Opportunity Act, Title V, sec. 553(a)(3) (Pub. L. 93-644 sec. 8(a)))

§ 158.43 Joint applications for technical assistance grants and contracts.

In order to more effectively carry out the purpose of this subpart, applicants which are eligible to receive a technical assistance grant under § 158.41 may submit applications which either in whole or in part envision a joint technical assistance program undertaken in cooperation with other eligible agencies pursuant to § 100a.19 of this chapter. Such joint applications shall clearly delineate the responsibilities of each separate agency in administering the program, and a separate grant will be awarded to each agency to administer its portion of the joint program. No agency receiving funds under this section may be the fiscal or administrative agent for a technical assistance grant or contract for another such agency.

(Economic Opportunity Act, Title V, sec. 553(a)(3) (Pub. L. 93-644 sec. 8(a)))

Subpart D—Grants and Contracts for Demonstration

§ 158.51 Eligible projects.

(a) *Activities.* The Commissioner may make awards in the form of grants or contracts, to public and private agencies, organizations, and institutions for the purpose of developing and implementing approaches to the education and development of disadvantaged children, which approaches can serve as models for use in Follow Through and similar programs. Activities undertaken with such assistance may include:

(1) the implementation of classroom instructional techniques and approaches;

(2) the implementation of methods for enlisting and utilizing the parents of disadvantaged children in the educational process;

(3) the implementation of methods for enlisting and utilizing members of the community (other than the parents referred to in paragraph (a)(2) of this section) in the educational process;

(4) the development and application of methods for the evaluation of educational programs designed for disadvantaged children, and for the use and dissemination of information derived from such evaluation; and

(5) the development of techniques for, and the provision of, specialized training for teachers and other personnel (both professional and nonprofessional) involved in the education of low-income children.

(Economic Opportunity Act, Title V, sec. 553(a)(1) (Pub. L. 93-644 sec. 8 (a)))

(b) *Special problems.* In addition to the assistance provided under paragraph (a) of this section, the Commissioner may also, where he has determined that projects of the type funded under paragraph (a) of this section can benefit therefrom, make grants or contracts for research pertaining to special problems encountered in the education of disadvantaged children.

(Economic Opportunity Act, Title V, sec. 553(a)(1) (Pub. L. 93-644 sec. 8(a)))

§ 158.52 Funding criteria.

In order to provide the necessary continuity for evaluation of the planned variation approach provided for in § 158.3, the Commissioner will provide financial assistance under this subpart only to those applicants who sponsor educational approaches currently being implemented in the Follow Through Program. The Commissioner shall in accordance with the criteria set forth in Title 45 CFR 100a.26(b), and subject to the requirement of paragraph (c) of § 158.51, renew funding for projects under this subpart on the basis that an applicant has satisfactorily operated a federally funded project under this subpart in the immediate prior year. In order to determine whether the applicant has satisfactorily operated a federally funded project under this subpart in the immediate prior year, the following criteria shall be used, rated on the scale unsatisfactory, satisfactory, above average, outstanding:

(a) The extent to which the evaluations conducted to date indicate program effectiveness according to criteria such as those defined by § 158.24(b).

(b) The extent to which the sponsor's objectives have been clearly stated.

(c) The extent to which the strategies for achieving the objectives have been clearly delineated in at least the following areas:

(1) Administration;

(2) Field services and training;

(3) Development of previously unused or unpublished materials;

(4) Evaluation;

(d) The extent to which parents have been and will be involved in sponsor activities.

(e) The extent to which the sponsor has provided and will provide for the training of:

(1) Administrators;

(2) Teachers;

(3) Teacher aides and other paraprofessionals;

(4) Parents;

(5) Others;

(f) The extent to which the sponsor has provided and will provide for the evaluation of the educational approach.

(g) The extent to which indicators of effective management have been present including:

(1) Staffing pattern and percent of time allocated;

(2) Qualifications of key personnel.

(h) The extent to which the sponsor has provided and will provide for monitoring the implementation of the model in the projects.

(Economic Opportunity Act, Title V, sec. 553(a)(1) (Pub. L. 93-644 sec. 8(a)))

Subpart E—Federal Financial Participation

§ 158.63 Federal share of expenditures.

The Federal share of expenditures incurred under Follow Through grants and contracts made pursuant to this part, up to the total specified in the award document, shall be:

(a) for local projects under Subpart B of this part excluding Supplementary Training, the difference between the non-Federal share required by § 158.64 and total expenditures;

(b) for Supplementary Training under Subpart B and for technical assistance under Subpart C of this part, 100 percent of expenditures; and

(c) for demonstration programs under Subpart D of this part, 100 percent of expenditures.

(Economic Opportunity Act, Title V, secs. 551, 552(b), 553(a) (1), (3) (Pub. L. 93-644 sec. 8(a)))

§ 158.64 Non-Federal share.

Subject to the provisions of § 158.63 the grantee shall share part of the costs of a Follow Through project funded under Subpart B of this part. Such share (hereinafter, "non-Federal share") shall be an amount equal to not more than: (a) 25 percent of the approved cost of the project if the project comprises one grade level; (b) 20 per centum of such cost if the project comprises two grade levels, (c) 16 per centum of such cost if the project comprises three grade levels, and (d) 14 per centum of such cost if the project comprises four or more grade levels. Once the project has reached its highest grade level (at least four grades, unless no kindergarten is in operation in the school district) and has operated at that level for a period of two project years, the non-Federal share shall increase again up to the maximum 25 per centum, rising in the same increments (one per year) in which it decreased to its lowest point. Criteria and procedures for the allowability and evaluation of cash and in-kind contributions in satisfying the non-Federal share are set forth in Subpart H of Part 100a of this chapter.

(Economic Opportunity Act, Title V, sec. 552(b) (Pub. L. 93-644 sec. 8(a)))

§ 158.65 Waiver of non-Federal share.

(a) *Eligibility.* (1) The Commissioner may reduce the non-Federal share required of a grantee by § 158.64 under any of the following circumstances:

(i) if the annual per capita income of the county in which the Follow Through project is located is less than $1,000, by an amount up to 100 per centum of the required non-Federal share;

(ii) if the annual per capita income of the county in which the project is located is $1,000 or more but less than $1,250, by an amount not in excess of the 50 per centum of the required non-Federal share;

(iii) if the grantee can demonstrate, using the most reliable available data, that the annual per capita income of the political subdivision of the county in which the project is located, or of the project area, is less than the annual per capita income of the county and that the annual per capita income of the political subdivision or project area is within the dollar limitations in either paragraph (a)(1)(i) or (1)(ii) of this section, by the amount specified therein;

(iv) if, in the case of a project serving migratory children or Indian children residing on reservations, the annual per capital income of the group or groups served is within the dollar limitations in either paragraph (a)(1)(i) or (1)(ii) of this section, by the amount specified therein.

(2) The Commissioner may also make an appropriate reduction in the non-Federal share required of a grantee if it is demonstrated to his satisfaction that:

(i) there has occurred a simultaneous increase in both the percentage of non-Federal share and the overall costs of the Follow Through project, such as occasioned by a rise in per capita income beyond the limits prescribed in paragraphs (a)(1)(i) and (a)(1)(ii) of this section during a period in which there has been a significant increase in the number of children served; or

(ii) the financial or human resources which would otherwise be available for use in the Follow Through project have been significantly reduced by natural disaster or other unusual circumstances af-

fecting the project area or the larger community in which it is located.

(b) *Application for waiver.* A grantee that is unable to contribute the full amount of its required non-Federal share, after having made every reasonable effort to do so, may request a reduction of its non-Federal share pursuant to paragraph (a) of this section. Such request shall be submitted in writing with the project proposal or such time thereafter as the grantee determines that it is unable to provide the entire non-Federal share, and shall describe:

(1) the circumstances which justify a reduction of the non-Federal share under paragraph (a) of this section;

(2) the source or sources of the information on per capita income (if such information is relied upon in the request);

(3) the effort which the grantee has made to provide its non-Federal share: and

(4) the amount of the non-Federal share which the grantee is able to provide and the extent to which this contribution is in kind.

(c) *Period of waiver.* The Commissioner shall not approve the reduction of non-Federal share for any period in excess of one year, but may renew such approval under resubmission of a written request that complies with paragraph (b) of this section.

(Economic Opportunity Act, Title V, sec. 552(b) (Pub. L. 93-644 sec. 8(a)))

§ 158.66 Use of funds for sectarian purposes.

Funds appropriated under the Act and distributed under this part shall not be used for any purpose which involves religious worship or instruction or religious proselytization.

(*Lemon v. Kurtzman*, 403 U.S. 602 (1971))

§ 158.67 Prohibition against supplanting.

Services and activities provided with funds made available under Subpart B of these regulations shall be in addition to, and not in substitution for, services and activities previously provided without Federal assistance.

(Economic Opportunity Act, Title V, sec. 552(c) (Pub. L. 93-644 sec. 8(a)))

§ 158.68 Salary and wage limitations.

To the extent paid from Federal funds or matching non-Federal funds, the rate of compensation of persons engaged in activities funded under this part shall not be less than the prevailing Federal minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, nor more than the average rate paid to a substantial number of the persons providing substantially comparable services in the community where the project is located or, if higher, the average rate paid for such services in the area of the employee's immediately preceding employment.

(Economic Opportunity Act, Title V, sec. 573(a) (Pub. L. 93-644 sec. 8(a)))

Subpart F—General Provisions

§ 158.84 Suspension, termination, and refusal to refund.

(a) (1) Assistance under the program may be terminated in whole or in part if the Commissioner determines after affording the recipient reasonable notice and an opportunity for a full and fair hearing, that the recipient has failed to carry out its approved project proposal in accordance with the applicable law and the terms of such assistance or has otherwise failed to comply with any law, regulation, assurance, term or condition applicable to the program. Assistance under this program may be suspended during the pendency of a termination proceeding initiated pursuant to this paragraph but only in emergency situations, e.g., where there is evidence of flagrant misuse of funds by the recipient, or evidence of unauthorized activity by the recipient which poses a threat of harm to children participating in the program.

(2) Proceedings with respect to the termination of a grant shall be initiated by the mailing to the recipient of a notice by certified mail, return receipt requested, informing the recipient of the Government's request for termination and the specific grounds therefor, together with information regarding the time, place, and nature of the hearing to be held and such other information with respect to the conduct of such proceedings as the Commissioner may determine. If the Commissioner determines for the reason specified in subparagraph (1) that suspension of assistance during the pendency of such proceedings is necessary, he shall afford the recipient reasonable notice of such determination. Such notice shall: (i) inform the recipient of such determination, (ii) advise the recipient of the effective date of such suspension (which will be no earlier than the date of such notice), and (iii) offer the recipient an opportunity to show cause why such action should not be taken.

(3) A notice of suspension of assistance shall advise the recipient, in addition to the matters described in paragraph (a)(2) of this section, that any new expenditures or obligations made or incurred in connection with the program during the period of the suspension will not be recognized by the Government in the event the assistance is ultimately terminated. Expenditures to fulfill legally enforceable commitment made prior to the notice of suspension, in good faith and in accordance with the recipient's approved program or project, and not in anticipation of suspension or termination, shall not be considered new expenditures.

(4) Termination of assistance shall be effected by the delivery to the recipient of a final order of termination, signed by the Commissioner or his designee, or where the recipient invokes the procedures available under paragraph (b)(2) of this section, upon an initial decision of an administrative law judge becoming final without appeal to or review by the Commissioner. If an initial decision of the administrative law judge is appealed to or reviewed by the Commissioner pursuant to paragraph (b)(2) of this section, then termination of assistance shall be effective upon a decision by the Commissioner holding that such termination is appropriate.

nated under this section, financial obli-

(5) In the event assistance is termigations incurred by the recipient prior to the effective date of such termination will be allowable to the extent they would have been allowable had such assistance not been terminated, except that no obligations incurred during the period in which such assistance was suspended pursuant to paragraph (a)(1) of this section and no obligations incurred in anticipation of suspension or termination will be allowed. Within 60 days of the effective date of termination of assistance under this section, the recipient shall furnish an itemized accounting of funds expended, obligated, and remaining. Within 30 days of a request therefor, the recipient shall remit to the Government any amounts found due.

(b)(1) If the recipient requests an opportunity to show cause why a suspension of assistance pursuant to paragraph (a)(1) of this section should not be continued or imposed, the Commissioner will, within 7 days after receiving such request, hold an informal meeting for such purpose.

(2) Hearings respecting the termination of assistance pursuant to this section shall be conducted pursuant to the provisions of the Administrative Procedure Act (5 U.S.C. 554–557). Proposed findings of fact, conclusions of law, and briefs will be submitted to the presiding officer within 20 days of the conclusion of the hearing.

(3) The initial decision of an administrative law judge regarding the termination of a grant under the program shall become the decision of the Commissioner without further proceedings unless there is an appeal to, or review on motion of, the Commissioner made in writing no later than 15 days after receipt by the party requesting such appeal or review of the decision of the administrative law judge. A request for appeal or review under this section shall be accompanied by exception to the administrative law judge's decision, proposed findings, supporting reasons and briefs. The adverse party shall submit its reply no later than 15 days after the submission of such request for appeal or review. The Commissioner shall issue a final decision in the case of such appeal or review no later than 30 days after the final submission of the above materials by the parties. The Commissioner may delegate his functions under this subparagraph to an appellate review council established and appointed by him.

(c) The procedures established by this section shall not preclude the Commissioner from pursuing any other remedies

authorized by law. Proceedings pursuant to Part 80 of this title with respect to the eligibility of an applicant for assistance under Title VI of the Civil Rights Act (42 U.S.C. 2000d) shall be governed by the regulations in that part and Part 81.

(d) The Commissioner will not refuse to renew funding of projects pursuant to § 158.15(i), unless the grantee has been given reasonable notice and opportunity to show cause why such action should not be taken.

(Economic Opportunity Act, Title V, sec. 554 (b), (c) (Pub. L. 93-644 sec. 8(a)))

§ 158.85 Nondiscrimination provisions.

(a) The Secretary shall not provide financial assistance for any program, project, or activity under this part unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation or beliefs.

(Economic Opportunity Act, Title V, sec. 574(a) (Pub. L. 93-644 sec. 8(a)))

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subject to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this part. Section 603 of the Civil Rights Act of 1964 shall apply to any action taken by the Secretary to enforce this paragraph.

(Economic Opportunity Act, Title V, sec. 574(b) (Pub. L. 93-644 sec. 8(a)))

(c) This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program, project, or activity receiving assistance under this part.

(Economic Opportunity Act, Title V, sec. 574(b) (Pub. L. 93-644 sec. 8(a)))

§ 158.86 Limitation with respect to certain unlawful activities.

No individual employed or assigned by any agency assisted under this part shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this part by such agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

(Economic Opportunity Act, Title V, sec. 574(b) (Pub. L. 93-644 sec. 8(a)))

§ 158.87 Political activities.

(a) For purposes of clauses (1) and (2) of section 1502(a) of title 5 of the United States Code, any agency receiving assistance under this part shall be deemed to be a State or local agency.

(b) Programs assisted under this part shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office, (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election, or (3) any voter registration activity.

(Economic Opportunity Act, Title V, sec. 576 (a), (b) (Pub. L. 93-644 sec. 8(a)))

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PART III

FEDERAL COMMUNICATIONS COMMISSION

■

NETWORK PROGRAM EXCLUSIVITY NONDUPLICATION PROTECTION RULES FOR CABLE TELEVISION

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19995 & 18785; FCC 75-413]

PART 0—COMMISSION ORGANIZATION

PART 76—CABLE TELEVISION SERVICE

Network Program Exclusivity Protection

In the matter of amendment of subpart F of Part 76 of the Commission's rules and regulations with respect to network program exclusivity protection by cable television systems, Dockets Nos. 19995, RM-2275 and RM-2376; amendment of § 74.1103 of the Commission's rules and regulations as it relates to CATV systems with fewer than 500 subscribers, Docket No. 18785.

1. On April 3, 1974, the Commission issued a *Notice of Inquiry and Proposed Rule Making in Docket 19995* to "review our present rules and policies on network program exclusivity and to determine what, if any, modifications of the rules may be warranted."[1] These proceedings followed the submission of a Petition for Rule Making (RM-2275) by the National Cable Television Association, which asked that rule making proceedings be instituted with the design of ultimately adopting six specified modifications to the network exclusivity rules as encompassed in § 76.91 of the rules. In addition, we noted that with the completion of the rule making proceedings of *Docket 18397*[2] our "basic regulatory structure for cable is firmly in place," thereby allowing for a re-examination of the rules and policies which underlie the exclusivity rules. With the adoption of this *First Report and Order in Docket 19995*, the Commission is concluding the initial stage of the first thoroughgoing review of the network program exclusivity rules since their promulgation in 1965.[3]

As we shall explain below, the completion of *Docket 19995* awaits a separate consideration of the complex issues present in according appropriate exclusivity protection in the Mountain Time Zone. Some indication of the significance of this proceeding may be gathered from the fact that well over three hundred separate formal comments and thousands of letters have been received by the Commission during the pendency of this rule making.[4] However, before we address the particular matters which constitute the subject of this *Report and Order*, we believe a brief summary of the development of our rules and policies with regard to program exclusivity will provide a useful frame of reference.

2. The nature and extent of the potential economic effects of cable television on television broadcast stations have been a matter of concern to the Commission since 1959. Our first step in the direction of imposing program exclusivity rules was taken in 1962, in the case of *Carter Mountain Transmission Corporation*, when the Commission denied an application for a permit to install microwave facilities to be used to transmit distant television signals to a cable system.[5] The Commission found that the proposed service, by providing a cable system with distant signals which duplicated the programming of the only local television station, would have a sufficiently adverse economic impact on that station to cause its demise. After weighing the benefits to be derived from the cable system's improved facilities against the potential loss of the only local broadcasting service, the Commission determined that the proposed operations would not be in the public interest. However, the microwave application was denied without prejudice to its being refiled when it could be shown that the cable system would carry the signal of the local station without duplication of its programming. Following the *Carter Mountain* ruling, we instituted rule making proceedings which resulted in the adoption of the Commission's first Cable Television Rules, extending only to microwave-served systems. In the *First Report and Order in Dockets 14895 and 15233*, the Commission concluded that a cable system's duplication of a local television station's programming through the carriage of distant signals constituted unfair competition with broadcasters. To equalize the conditions under which cable systems and broadcasters competed, and to ameliorate the risk that Cable television would have a future adverse economic impact on television broadcasting service, we adopted mandatory signal carriage and program exclusivity rules for microwave-served cable systems.

3. One year later, we released our *Second Report and Order* in which the Commission asserted jurisdiction over all cable systems and adopted more comprehensive rules and regulations to govern their operation.[6] The program exclusivity provisions of the 1966 rules required that a cable system located within the Grade B or higher priority contour of a television station, upon request of the station licensee or permittee, maintain the station's exclusivity as a program outlet against lower priority or more distant duplicating signals on the same day as the program broadcast by the station (i.e., same-day non-duplication protection). Priorities under this rule were assigned on the basis of television stations' predicted signal strength contours, which, from highest to lowest were Principal Community, Grade A, Grade B, and a fourth priority for television translator stations with 100 watts or higher power licensed to the community of the cable system. Two years after the release of the *Second Report and Order*, the Commission launched an inquiry into the long-range development of cable television service, which resulted in the adoption of the *Cable Television Report and Order* in 1972. The network program exclusivity provisions of the 1972 rules, while generally reducing the period of required exclusivity protection from same-day to simultaneous non-duplication, retained all precedents and policies which had evolved under the previous non-duplication rules. One major exception to the reduction in the extent of required protection was adopted with the *Reconsideration of the Cable Television Report and Order*, FCC 72-530, 36 FCC 2d 327 (1973). For stations in the Mountain Time Zone which were licensed to communities not in the first 50 major television markets, the period of required exclusivity protection reverted to a same-day basis.

4. Following the adoption of our *Second Report and Order* in 1966, the Commission received a large number of petitions for special relief from cable systems seeking waivers of the exclusivity rules. In order to avoid any substantial weakening in the effect of the rules, we required a showing of special hardship or unusual or exceptional circumstances by cable systems seeking exclusivity waivers. The heavy burden of proof we imposed on cable systems is readily apparent from the fact that a very few waivers of the exclusivity rules have been granted by the Commission over a period of nine years. But, while we have strictly enforced exclusivity as a general rule, we have also recognized that cable systems, particularly small systems, encounter some hardship if forced to comply with the exclusivity rules. Therefore, in 1968, we acted to temporarily relieve some small systems from the burdens of compliance with the rules by implementing a modified procedure for processing waiver requests.[7] Under this procedure, Commission action was deferred in cases involving cable systems having fewer than 500 subscribers, on the grounds that such systems would be least likely to have any substantial adverse economic impact on broadcasters and would be most likely to present persuasive cases of hardship that would warrant waivers of the rules. The Commission was convinced that these small systems, being usually one or two man operations, constituted a unique class and deserved special consideration in deference to their limited size and resources. In the *Report and Order in Docket 18785*, FCC 74-299, 46 FCC 2d 94 (1974), the temporary waiver policy was adopted as an exception to our rules. We concluded that cable systems having fewer than 500 subscribers could have only a negligible adverse impact on broadcasters, and therefore, should be exempted from our network program exclusivity rules.

[1] FCC 74-335, 46 FCC 2d 1164 (1974).

[2] *See*, generally, the *Cable Television Report and Order*, FCC 72-108, 36 FCC 2d 143 (1972).

[3] *See* the *First Report and Order in Dockets 14895 and 15233*, 38 FCC 683 (1965).

[4] Parties filing formal comments in this proceeding are listed in Appendix A.

[5] *Carter Mountain Transmission Corp.*, 32 FCC 459 (1962), *aff'd sub nom, Carter Mountain Transmission Corp. v. FCC*, 321 F 2d 359 (D.C. Cir. 1963), *cert. denied*, 375 U.S. 951 (1963).

[6] *Second Report and Order in Dockets 14895, 15233 and 15971*, 2 FCC 2d 725 (1966).

[7] See the "TEMPORARY MODIFICATION OF PROCESSING PRIORITIES IN § 74.1103 WAIVER CASES," FCC 68-259.

5. Today, after examining the arguments and data which have been submitted in connection with the present proceedings, we have decided to amend our Rules in the following manner:

(a) When a local television station is being protected, the cable television system may carry the local station's protected programming on all duplicating channels that would otherwise be blacked out during periods of non-duplication protection;

(b) The non-duplication priorities which have hitherto been determined by reference to predicted signal contours are being replaced by rights to protection determined with reference to a fixed specified zone of 35 miles in all television markets and a secondary zone of 20 additional miles in smaller television markets;

(c) We have retained an exemption for small cable television systems, but this exemption will be determined by the number of subscribers served from a headend, and the overall exemption has been changed to 1,000 subscribers;

(d) We have modified the procedural aspects of our rules, clarifying the rights and obligations of broadcasters and cable television operators.

Throughout the discussion which follows, the terms "network exclusivity" and "non-duplication" have been used interchangeably. However, they mean the same thing—the quality and extent of program protection accorded a local television station's network programming by a local cable television system.

6. Since the *Reconsideration of the Cable Television Report and Order* was adopted, the network exclusivity obligations of cable television systems and television broadcasters operating in the Mountain Time Zone have been governed by a standard of exclusivity unique to this area. The *Reconsideration* amended § 76.93(b) to accord Mountain Standard Time Zone stations licensed outside the first 50 major television markets "same-day" protection against duplicating lower priority signals, as contrasted with the "simultaneous" protection in force elsewhere around the nation. This action was taken because it appeared that the programming practices followed by such stations were so influenced by a lack of uniform network program distribution patterns that simultaneous exclusivity provided very little protection to a local station's prime time network programming. In view of the many protests which this rule engendered among cable operators and cable subscribers, we asked for comments on the issue whether "the period of required exclusivity in the Mountain Standard Time Zone" should be changed. The comments we have received and analyzed have persuaded us that a resolution of this particular issue would be assisted by oral proceedings in the form of a panel discussion before the Commission. Consequently, we are severing consideration of the matters involved in the extent and degree of exclusivity protection appropriate to the Mountain Standard Time Zone from the matters deliberated and decided in this *Report and Order*.[1] Our conclusions regarding the Mountain Standard Time Zone will be reported in a subsequent Report and Order in Docket 19995.

7. The present exclusivity rules have been a constant source of aggravation and irritation. Cable operators contend that the present rules are unduly rigid, that they often require the protection of stations which cannot be viewed against those that can. The notifications received from broadcasters are said to be untimely and erroneous. Additionally, the problems associated with switching equipment seem to create illwill on the part of their subscribers. Subscribers are often furious at both the cable operator from whom they have been led to believe that full-time signal carriage will be provided and the local broadcaster who requests protection. Other sources of irritation occur when they watch a channel carrying a non-protected station, only to have the next program blacked out, or because of switching errors, a program may be clipped before completion. It is not at all uncommon for local governments, which franchise cable television operations, to find themselves embroiled in such controversies. Moreover, since the Commission established a Cable Complaint Service in the Cable Television Bureau, the volume of complaints registered with regard to the network exclusivity rules has far surpassed other categories of subscriber dissatisfaction. In general, broadcasters have complained about the burdens they bear in notifying cable systems of the programs they want to have protected, the attitude with which some cable operators treat these notifications, and the cumbersome machinery of legal enforcement of these rules by the Commission. It is against this background that comments were solicited on the following questions:

1. Generally, what, if any, modifications of the Commission's network program exclusivity rules should be adopted?

2. Should a new or modified system of priorities or zones of protection be established for television broadcast stations?

3. Can the network program exclusivity rules be modified so as to better reflect actual viewing patterns of television signals available off-the-air in cable communities and, thereby, be made more consistent with the Commission's signal carriage rules?

4. Should the degree of exclusivity protection afforded television broadcast stations vary according to the size of the television market in which a cable system is located?

5. Should a general exemption or other form of relief be provided for cable systems located outside of the specified 35-mile zones of all television broadcast stations? (Defined by § 76.5(f) of the rules.)

6. Should a higher priority or other special consideration be provided for television stations located within the same state as a cable system, as against out of state stations?

7. Should a general exemption be adopted for cable systems having fewer than 1,500 subscribers?

8. Should any general exemptions from the rules be based upon criteria other than system size (the number of subscribers to a cable system, as defined by § 76.5(a))? For example, a formula based on the total population of a community could be employed, whereby cable systems located in communities having a total population of 3,100 or less would be exempted from the rules regardless of the actual number of system subscribers:

3,100 ÷ 3.1 persons per household = 1,000 households.

1,000 × 50 percent penetration = 500 households.

9. Should the period of required exclusivity in the Mountain Standard Time Zone be changed?

10. Should cable systems be permitted to carry a protected station on a channel which is required to be blacked out?

11. Should a cable system be permitted to carry television programs carried by television translator stations serving the cable community?

12. Should a change in a television station's facilities give rise to a requirement for non-duplication protection?

13. What improvement can be made in the procedural aspects of the rules concerning timing and sufficiency of program notices and schedules required to be supplied to cable systems by television stations requesting exclusivity?

14. Should new rules or procedures be adopted to provide for the imposition of sanctions by the Commission against:

a. Cable systems which fail to comply with proper requests for network program exclusivity protection, or

b. Broadcasters who fail to provide cable systems with proper and timely program notices.

What sanctions, if any, should be available to the Commission?

15. Should existing waiver procedures and policies be modified?

In our consideration of these issues, several have been consolidated for purposes of discussion and disposition.

General Comments

8. At this point, before we consider the many specific issues which lie at the heart of this proceeding, it is appropriate to take cognizance of the broad policy statements expressed by the contending parties in interest, the cable operators and the broadcasters. We refer, of course, to the major trade associations participating in *Docket 19995*. The National Cable Television Association (NCTA), National Association of Broadcasters (NAB) and the Association of Maximum Service Telecasters (AMST) were generally in sharp disagreement at every turn. For instance, NCTA argued that the non-duplication rules should be extirpated root and branch, that they serve no useful purpose and can no longer be justified. In contrast, both NAB and AMST urged that no changes should be made to the present scheme of regulation, that the current rules provide an adequate balance between the competing interests of cable operators and television licensees.

[1] We have issued an *Order* establishing a proceeding in which the issues of the Mountain Standard Time Zone will be aired in a panel discussion before the Commission. *See*, FCC 75-407, —— FCC 2d —— (1975).

a. *Cable Television Interests.* 9. The National Cable Television Association, Inc. (NCTA) states at the outset that the non-duplication rules should be abolished entirely. They argue that while the Commission has, since the adoption of its *First Report and Order, supra,* relied on the concepts of unfair competition and adverse economic impact, both of these bases are improper since they are without factual or legal foundation. This rationale has been nothing more than an argument to justify the economic protection of television broadcast stations. They argue that there has been no evidence whatsoever to support the Commission's allegation that duplication of network programming will result in substantial economic impact on television broadcast stations. Since 1965 the period of required protection has been reduced from 15 days before and after a protected program, to same day, to simultaneous (except in the Rocky Mountain Time Zone). None of these modifications, however, have resulted in any demonstrated adverse economic impact on any local television station. With this "dramatic history," the Commission should not be dissuaded from establishing some relief to cable systems in the existing network program exclusivity rules.

10. According to NCTA, since the existing non-duplication rules enjoy no rational basis, their continued imposition is unwarranted. Administrative flexibility demands that the Commission periodically reexamine the precepts underlying its rules, and it is argued therefore, that since the underlying rationales for the non-duplication rules are invalid, the Commission should undertake to eliminate the non-duplication regulations entirely. NCTA asks only that the Commission establish a policy which responds to the real needs of the cable system operator, the television broadcaster and the television viewing public.

11. NCTA recommends that the Commission undertake a controlled test for a period of one year to determine the actual impact of signal duplication by cable systems on television broadcasters. They state that the Commission could select proper markets in which there was substantial cable penetration and in which there is a preponderance of cable systems with more than 1500 subscribers inside television stations' 35-mile zones. During this period, the Commission could monitor the markets selected for the test. NCTA submits that during the proposed test the Commission could obtain necessary data in each of the test markets as to the actual effects on a local stations audience, its advertising revenues, and its ability to perform in the public interest. They go on to say that if the Commission finds no substantial impact on those selected television broadcasters during this test period, the Commission should then establish a total moratorium for its non-duplication rules for two years during which time all cable systems would be relieved of the restrictions on duplication of permissible network signals. During both the initial test and the moratorium, individual broadcasters would have the right to obtain special relief if an appropriate showing was made.

b. *Broadcast Interests.* 12. The Comments filed by broadcasting interests are virtually unanimous in their opposition to any substantive changes in the network program exclusivity rules. The National Association of Broadcasters (NAB), for example, submits that the proposals advanced by NCTA and others for reduction and eventual deletion of non-duplication protection are no more than arbitrary attempts to get as many cable systems as possible beyond the purview of the non-duplication rules, regardless of public interest consequences. They argue that, unlike previous reductions in the extent of non-duplication protection which have enabled the public to see programs at various times they are broadcast, any further reductions in non-duplication protection could not enhance the availability of programming to the public. If the Commission now reduces the extent of non-duplication by riddling the rules with further exemptions and meaningless priorities the public would gain nothing and, in fact, would stand to suffer a substantial loss in the quantity and quality of broadcast television service to which it has become accustomed.

13. While they argue that the reduction of non-duplication protection in several small steps has made the reductions appear acceptable due to a minimal loss of protection, NAB submits that the Commission must look to the cumulative impact of both the proposed reductions and previous reductions to properly assess the effect of any modifications in the rules. The marginal loss of non-duplication protection in any one of the proposals reflected in the questions posed for comment might well be minimal, but coupled with previous or concurrent reductions, the loss will be significant. The Association of Maximum Service Telecasters (AMST) states that except for the Mountain Time Zone, the only benefit that the public would receive from the proposed modifications in the non-duplication rules would be the ability to watch the identical program at the same time on two different stations. AMST argues that NCTA, by proposing modifications in this rule making proceeding, has abrogated its obligation to comply with the Consensus Agreement of 1972. They suggest that those who would weaken the network non-duplication rules must be called upon to demonstrate why the Commission and every expert economic study have been in error for the past ten years in concluding that if simultaneous duplication of network programs was permitted there would be serious audience fragmentation, with resultant losses in quality as well as quantity of local free broadcast service. The fact that television stations have survived with network non-duplication rights does not mean that they would survive without such rights.

14. The Commission, AMST submits, must be concerned not merely with the prospect of stations going off the air, but also with very real prospect that continued survival could be achieved only through drastic cutbacks in expenditures for quality local program service, and that such decisions would be necessitated by audience fragmentation and resultant revenue losses which would occur without network non-duplication rights. Further, it is argued, the issue is not whether today's cable systems, serving perhaps 15 percent of U.S. television homes, have destroyed television broadcast service but whether the anticipated cable operations of the future, serving perhaps 50 percent or more of the nation's television households, will wreak havoc on the television service which the rest of the populace will then depend on if there was a substantial reduction in network non-duplication.

15. Broadcasters argue that they will incur a substantial loss in their total viewing audience and their advertising revenues if protection is diminished. They state that the Commission has based decisions in rule making proceedings and in individual cases on the premise that network non-duplication protection would be available (1) outside as well as inside 35-mile zones, (2) against "significantly viewed" overlapping signals, as well as distant signals available only via microwave, and (3) on "small" as well as large CATV systems. The critical point, it is said, is that the advocates of weaker exclusivity rules must explain why today's circumstances are so radically different from those prevailing in 1972 and in years past, when NCTA's willingness to comply with network non-duplication was repeatedly reaffirmed. In 1972, in reducing protection to a simultaneous basis everywhere but the Mountain Time Zone, the Commission reasoned that this would provide viewers with the advantage of "time diversity," defined as the opportunity to watch a particular network program at a different hour on the same day. AMST contends that although the difference between watching a program at one hour as opposed to another is a dubious benefit at best, even this advantage cannot be cited in support of wholesale exemptions and cutbacks in present network non-duplication rights.

16. In reference to the statement in the *Notice of Inquiry and Proposed Rulemaking in Docket No. 19995,* that the Commission has been "continuously flooded with complaints and petitions" from cable system operators, subscribers, and members of Congress, AMST submits that the vast majority of these petitions and a very considerable portion of complaints voiced by cable subscribers and members of Congress have been generated by cable systems who have philosophical or other reasons to avoid compliance with the Commission's rules. It is suggested that the large volume of mail received by the Commission in this proceeding is proof of the persistence of cable lobbying efforts but largely irrele-

vant to the question whether non-duplication is an appropriate regulatory practice.

c. *Discussion.* 17. A regulatory body which fails to examine, from time to time, those rules and policies which so vitally concern the parties it purports to regulate, can scarcely be said to be serving the public interest. Since their adoption in 1966, the non-duplication rules have been modified only on a piecemeal and partial basis. However, the system of priorities of protection, basic to these rules, has neither been revised or revisited. Over the years, we have acquired a wealth of experience in the day-to-day administration of the non-duplication rules and a surer grasp of their effect upon broadcasters, cable operators and the public. The many comments we have received in this proceeding and the many complex issues we have analyzed have persuaded us that the exhaustive review of non-duplication, which is represented by this *First Report and Order*, was certainly warranted.

18. Nothing in the comments we have received in this proceeding nor the issues we have carefully analyzed, has convinced us that the non-duplication rules fail to serve a useful purpose: the preservation of local television service. Our review of the revisions we have made to the present non-duplication rules, i.e., specified zones of protection and a new subscriber exemption level, has convinced us that unrestricted signal carriage by cable television systems would have a deleterious effect upon local television stations. Therefore, we shall not abandon these rules as NCTA urges. Our task continues to be an ongoing attempt to provide an adequate measure of protection to local stations while not inhibiting the diversity and improved reception which cable television service can provide. With the acquisition of additional experience and insight, we have struck the balance at different points—hence, the reduction in the areas and zones of protection, and the additional revisions we adopt today. We do not believe that the NCTA's proposal that we conduct tests in selected television markets will serve a useful purpose; there is sufficient information available to us on which we can make a judgment now.

19. Similarly, we believe the broadcast interests overstate their case when they argue that a further reduction in the reach of non-duplication protection will not benefit the public. The revisions we are adopting should certainly remove many of the more objectionable consequences of our rules. If we can eliminate or alleviate some of the constant sources of subscriber irritation, then it would seem that the public interest is served. It should be borne in mind that cable television systems often extend a station's programming to audiences which, for various reasons, are beyond the normal reach of a station's signal. Therefore, taking steps to improve the system's service should benefit many parties. We believe the changes to those rules should alleviate the expressed concerns of broadcasters that the cumulative impact of our revisions will produce devastating results. In many instances, stations which have never been able to acquire protection will now be entitled to it. Also, by utilizing a "headend" concept, rather than the "community" standard to determine when our new exemption for smaller cable television systems will apply, the rules will be more equitable in their application.

20. The 1972 Consensus Agreement among copyright, cable and broadcast interests is no impediment to our reexamination of the non-duplication rules. This agreement [9] makes only the following reference to these rules:

> The same-day exclusivity now provided for network programming would be reduced to simultaneous exclusivity (with special relief for time zone problems) to be provided in all markets.

Additionally, we addressed the impact of the Consensus Agreement in the *Cable Television Report and Order* and concluded that:

> In all other respects—for example, the details of network and syndicated programming exclusivity protection, leap-frogging, the significant viewing standard, the definition of signals that must be carried—the Commission retains full freedom, and, indeed, the responsibility to act as future developments warrant.[10]

21. Finally, we cannot agree with AMST that the large volume of mail the Commission has received in the proceeding is only the result of intensive lobbying efforts and reflects no underlying demand for revision to our rules. We invited everyone to give us their views, and we believe there are sufficient grounds to conclude that genuine dissatisfaction by many cable subscribers does exist.

Dual or Multiple Channel Carriage

a. *Cable Television Comments.* 22. Cable interests argue that there is no adequate justification for requiring that channels carrying signals which must be deleted remain dark during periods of non-duplication protection. The requirement that a cable system must refrain from carrying protected programming on more than one channel has remained in the Rules since the *First Report and Order in Dockets 14895 and 15233* was adopted in 1965, despite that fact that it works to the disadvantage of cable operators while no longer serving the original purpose for which it was intended. NCTA submits that the requirement ought, therefore, to be eliminated. NCTA suggests that cable television systems would benefit greatly from this requested change in the Rules. According to the NCTA, at the time *Docket No. 14895* was adopted, the Commission could not understand why cable operators would be reluctant to leave a channel dark during non-duplication deletions. Experience, however, has demonstrated that there is an adverse impact on cable systems when a blacked-out channel remains empty. When the cable operator deletes a duplicated program, he has three options: (a) he may carry another signal (if there is programming available to fit that particular time period) which is not prohibited by the Commission's carriage rules, and he has some means of receiving that programming; (b) he may originate his own programming if he has the capability to do so and does not wish to reserve local origination for a separate channel on a regular schedule; (c) or, as in the great majority of cases, he may leave the channel blank. Consequently, a cable subscriber is presented with sporadically empty channels. Since the non-duplication rules often require deletion of a signal which can be received off-the-air by local viewers, the phenomenon of empty channels in cable homes has had a substantially adverse impact on the ability of systems to attract and retain new subscribers.

23. Broadcasters contend that carriage of a signal on more than one channel tends to destroy station identification in the minds of the audience and their advertisers, and eliminates any "lead-in" value network programming may have. These arguments are vitiated, cable interests contend, because in many cases a local station cannot be carried on its assigned channel regardless of the non-duplication rules. In addition, UHF channels must be converted to a "click" position on the VHF dial by a cable system, and VHF channels must often be carried on other than their assigned channels in order to prevent material degradation in the quality of their signal due to co-channel interference. The only significant issue of import is the question whether the local station's advertising support is harmed by multiple channel exposure, and NCTA argues that it is not. Both the American Research Bureau (ARB) and the A. C. Neilsen Company have established non-duplication editing procedures which insure that local stations are credited with all the audience to which they are entitled. If a viewer filling out a ratings diary makes a mistake in an entry due to confusion caused by a television station being carried on more than one cable channel, the mistake is picked up and corrected by ARB diary editors and the local station is given full credit for the program. Broadcasting interests claim that multiple channel exposure will result in a loss of the lead-in value of network programming for local programming. That is, when a cable viewer can stay tuned to a distant station's channel and receive the protected programming of a local station, it is likely that when the network programming—and non-duplication protection—ends and local programming begins, viewers will stay tuned to the distant channel. If a viewer is required to change to the local station's channel to watch a network program, the local station will benefit from the viewer's propensity not to change channels and thereby watch non-

[9] The Consensus Agreement is Appendix D to the *Cable Television Report and Order, supra*, at 284.

[10] *Cable Television Report and Order, supra*, at 167.

protected programs which may follow—hence, the lead-in effect. NCTA argues that most network programming is carried in prime time, and local stations do not therefore select network shows on the basis of their lead-in value for local programming. In any event, if the broadcasters' theory is correct, permitting the protected signal to be carried on a blacked-out channel will increase the local station's audience for that program because viewers previously tuned in to the lower priority station's local program will stay tuned. NCTA contends that in any case, a decision on the merit of its proposal should not be based on the physiological or psychological inclination of a TV viewer to change or not change channels at the conclusion of a program.

24. Cable interests insist that the issue remains whether the local station will actually lose audience and advertising revenue for its network programming if a cable system is permitted to carry that programming on a blacked-out channel. The non-duplication editing procedures practiced by ARB and Neilsen insure that there can be no adverse economic impact. Thus, placing the protected signal on a blacked-out channel will not render the protected programming any less valuable. Cable subscribers will continue to have the choice of deciding which channel they want to watch following the termination of non-duplication protection. In practice, many television stations permit cable systems to carry their signals on blacked-out channels. In a survey conducted by NCTA, only 72 of 227 systems were not permitted to carry a local station on the blacked-out channel. The Commission's present non-duplication rules, it is said, create a checkerboard pattern of programs and blackouts. NCTA submits that there is no longer any basis for permitting a broadcaster who requests non-duplication protection to force empty channels on cable subscribers. The existing rule is a disservice to the public and no longer fulfills any rational purpose.

b. *Comments of Broadcasters.* 25. Broadcasters argue that NCTA's arguments with regard to multiple channel carriage of protected network programming reflect their lack of knowledge of the broadcasting business. It is argued that carriage of the same network programming on more than one channel at the same time will not benefit cable subscribers or the public interest and it will cause serious injury to the higher priority station which is carried on two channels. They argue further that local stations must retain the sole power to make the business judgment as to whether or not single channel carriage is needed in a particular television market. Because numerous variables will determine the effect of carriage on deleted channels on any particular station, no generalization—and, no broad rule—is possible. NAB states the purpose of the present rule prohibiting dual channel carriage is to prevent audience fragmentation due to loss of viewer identification or misidentification. Thus, a subscriber tends to identify a station by its call sign and its channel number if carried on the same channel on cable. They note that the Commission has on numerous occasions recognized that television stations "have an interest in developing both of these identities, and multiple channel carriage reduces a station's channel identification even if the station's identification announcements are carried on all of the channels." Commission decisions in *H&B Communications Corp.*, 17 FCC 2d 968 (1969), and *Triad Cablevision, Inc.*, 18 FCC 2d 628 (1969), are cited.

26. A station may suffer loss of local station image in the minds of viewers and advertisers if the station's viewers can watch the local station on the deleted channel as well. Certainly, they state, nothing alerts the viewer to the fact he is watching the local station when his television receiver is tuned to a distant channel. And while the problem of proper station identification by the viewer has been substantial enough to necessitate development of techniques to correct rating service data errors which occur when a local signal is carried on a distant channel, these techniques have not eliminated all problems. Despite assurances from the American Research Bureau and its diligent efforts, they state that representatives of several station licensees who have reviewed ARB diaries continue to find a disturbing number of uncorrected dairy errors. An error in a single diary can result in a ratings loss of several hundred homes. It is argued that dual carriage is nothing more than needless program duplication and that cable operators now apparently desire to carry stations on a dual channel basis in order to advertise a larger number of fulltime cable channels. Since this programming is mere duplication, the Commission should not become a party to such marketing practices. In any case, a system may now carry on the blacked-out channel the signal of any station which it carries on a non-mandatory basis since § 76.55 is applicable only to stations which the system must carry.

27. It is submitted, that the effect of carriage of the higher priority station on more than one cable channel may be beneficial or adverse, depending on various considerations. Allowing a cable system to carry the protected signal on the blacked-out channel may result in an important loss of "lead-in" for the station's next non-duplicated program. The reluctance of viewers to turn to a different channel, they aver, is widely recognized by television program managers, and if a household is able to watch a duplicated program on the distant channel's dial position, there is a significant probability that it will stay tuned to the distant channel. NAB acknowledges that many stations are willing to allow carriage of their signal on the blacked-out channel because some station managers feel that the audience gained from viewers already tuned to the distant station more than offsets the loss of lead-in. But, they argue, the importance to the local station of the lead-in phenomenon is clearly a judgment that should be made by the local station, not by the cable system or the Commission. In view of the absence of even tenuous public interest benefits, it is argued that the Commission should not encourage needless program duplication by elimination of the single channel carriage requirement, but should reserve this judgment to individual broadcasters.

c. *Discussion.* 28. Section 76.55(a)(3) of the Commission's rules (the single channel carriage rule) provides that, on an appropriate request, a television signal which is required to be carried pursuant to the Commission's signal carriage rules shall be carried on no more than one cable channel. Ordinarily, when a duplicating television signal must be deleted by a cable system pursuant to the network program exclusivity rules, the channel on which the duplicating signal is carried is blacked out. That is, no programming of any kind is carried on that (lower priority) channel. The proposal under consideration would permit a cable system to carry the protected television signal (entitled to non-duplication protection) on the channel or channels whose programming must be deleted and would otherwise remain dark while exclusivity protection is in effect.

29. We do not think there is any question that this blacking out of channels constitutes a problem of great concern to both cable subscribers and system operators. A large percentage of the letters received by the Commission from cable subscribers complain vehemently about this occurrence. Subscribers become irate for a number of reasons. They are paying for a service which will theoretically provide them with a multiplicity of television channels. When a number of these channels go dark periodically they feel that they are being denied service for which they have paid. Also, subscribers become annoyed not only because they have to get up periodically and change channels but because channels go black suddenly and without warning.

30. The Commission first adopted a single channel carriage rule (see former § 21.712(d)(3)) in the *First Report and Order in Dockets 14895 and 15233, supra.* In that proceeding, the Commission noted various broadcasters' contentions that "* * * carriage of their signal on more than one channel tends to destroy their program identification in the eyes of the audience and the advertisers." 38 FCC 2d 683, 733. It was determined that, upon the request of a television station, a cable system would be required to refrain from carrying a station's signal on more than one channel. At the time the rule was adopted it did not appear that it would cause any disadvantage to either cable subscribers or system operators. Now, however, there is ample evidence to indicate that the blacking out of cable television channels constitutes a major source of frustration to both subscribers and system operators, and

may deter people from becoming or remaining subscribers. Multiple channel carriage will in no way affect a television station's right to non-duplication protection. It will merely permit a cable system to carry a protected station's signal on both that station's designated cable channel and the channel which normally carries the lower priority station which must be blacked out. Thus, the local station's complete signal, including all advertising spots and station identifications, will be carried in full on both channels. Technically, this technique should be available to any cable system with existing non-duplication switching equipment. By permitting multiple carriage of protected network programming, cable channels will not have to be periodically blacked out, but rather will always be programmed during viewing hours. We believe that this revision should alleviate a great deal of subscribers dissatisfaction which now exists.

31. We must also consider whether multiple channel carriage will adversely affect local television stations. Television station revenues are based in large part on the total number of households which view a particular station. Television audience figures are obtained primarily from two national television rating services, the American Research Bureau (ARB) and the A. C. Neilsen Company. Both companies compile television viewing data chiefly by means of rating diaries which are placed in the homes of selected television viewers. Broadcasters argue that if multiple channel carriage is permitted some cable television viewers may mistakenly make incorrect entries in their rating diaries. And, since each diary may represent several hundred television households, a few mistaken entries could result in a significant loss of audience credit and, consequently, a loss of advertising revenues. While there is some justification for the broadcasters' concern, we believe that the procedures now in use by the rating services will prevent any adverse impact to local broadcasters.

32. Shortly after the release of the *First Report and Order* in 1965, the American Research Bureau began to edit the diary information it received from cable households in certain television markets. The "non-duplication editing" process was established to insure that full audience credit is given to a station receiving non-duplication protection, by editing diaries received from cable households and correcting any errors which would otherwise detract from the local station's audience rating and market share. That is, if a cable subscriber's diary listed, presumably through error or confusion, the call letters of a distant television station at a time when the local station was receiving non-duplication protection, the diary would be checked and corrected to properly credit such viewing to the higher priority station.

33. We are not persuaded by the evidence of record that the editing of diaries by the ARB and A. C. Neilsen services involves substantial failures to credit viewing households to deserving stations or that these failures significantly reduce their credited audiences. The fact that many stations routinely review the diaries collected from their markets gives further assurance that editing errors will not be substantial, nor will they persist for any length of time.

34. The final question to be resolved is whether local stations will be adversely affected if they lose the benefit of what they term the "lead-in phenomenon." Under the present single channel carriage rule, cable television subscribers must tune to the channel of the local station in order to watch that station's network programming. When network programming ends, broadcasters contend, the viewer will tend to stay tuned to the local station's channel and watch its non-network programming. It is argued that if cable television subscribers are permitted to view the local (i.e., protected) station's programming on the distant (i.e., lower priority) station's channel, they will tend to stay tuned to the lower priority station's channel when network programming ends and watch the distant station's non-network programming. Thus, the benefit derived from network programming "leading in" to a local station's non-network programming will be lost if multiple channel carriage is permitted, resulting in audience loss and adverse economic impact on the local station. We do not agree that multiple channel carriage will significantly affect the "lead-in" phenomenon. While it is obvious that some viewers may tend to stay tuned to the lower priority station's channel at the conclusion of network programming to watch the distant station's non-network shows, it is equally obvious that the local station will gain additional viewers from those watching the distant station's channel prior to the commencement of network programming. There is no evidence which supports the conclusion that the local station is likely to lose audience overall. Furthermore, two-thirds of the cable systems responding on the question of dual carriage reported to the NCTA that their local television stations preferred dual carriage to blacked out channels. In addition, if a local station's signal is carried on more than one cable channel, its chances of random selection by viewer will, in many cases, be increased.

35. In sum, it appears that blacking out of cable television channels pursuant to the non-duplication rules is a problem which can be readily alleviated by permitting cable systems to carry the signal of those stations entitled to network program exclusivity on both the protected station's assigned channel and on the blacked out channel. The previously-described non-duplication editing procedures currently employed by the two major television rating services insure that a local station's audience rating and advertising revenues are satisfactorily safeguarded for purposes of their network programming. And as far as the "lead-in" phenomenon is concerned, we have no reason to anticipate adverse effects on local station audiences. We would add that cable systems will be required to provide full carriage of a protected program with its accompanying advertising (see § 76.55(b) of the Commission's rules), and that systems will be expected to cooperate fully with both stations and the rating services so that proper non-duplication editing of the viewer diaries can take place.

SIGNIFICANTLY VIEWED SIGNALS

a. *Cable Television Comments.* 36. It is argued that to be consistent with the Commission's signal carriage rules, the network programming of significantly viewed stations should not be deleted to protect television stations within 35-miles of a cable system. In its cable rules the Commission recognized the fact that certain television signals, regardless of their distance from the cable community, are available off-the-air. The 1972 *Cable Television Report and Order*, required that signals which are significantly viewed in the cable community must be carried by the cable system upon an appropriate request. Yet it is said, despite the general availability of such signals, the non-duplication rules work to black out a large portion of the programming of significantly viewed signals in order to protect a theoretically higher priority station. If the logic of the carriage rules applies regardless of a television station's signal contour, what can be the rationale for requiring cable systems to prevent its subscribers from viewing television signals which are receivable off-the-air by the viewer next door? Television stations within 35 miles of a cable system should no longer be entitled to this artificial protection against significantly viewed stations with which they must otherwise compete off-the-air.

37. The Commission's signal carriage rules recognize that signals are actually viewed in the cable community. However, a significantly viewed station whose theoretical contour does not touch a cable community may be blacked out in order to protect a non-significantly viewed station whose predicted Grade B contour theoretically covers the cable community. The Commission's present non-duplication standards can require a cable system to black out an excellent high quality signal—one that viewers watch—in order to protect a theoretically higher priority signal, which is in fact weak and technically unsatisfactory. Such a situation should not be permitted to continue.

38. NCTA notes that the *Reconsideration of the Cable Television Report and Order, supra*, assured concerned broadcasters that the Commission's rules would not discourage cable carriage of significantly viewed stations. But, adding carriage of a significantly viewed station—a new station, a station with improved facilities, or an existing station previously not required to be carried—may result in a substantial burden to a cable operator if he is required by another station to black out its program-

ming. If the system which carries a significantly viewed signal must incur the additional expense and inconvenience of deleting a significantly viewed station's programs, NCTA observes that the system may be discouraged or even penalized by carrying these stations. It is submitted that the Commission should encourage the carriage of significantly viewed stations by not simultaneously requiring much of their programming to be deleted. Thus, NCTA proposes that the Commission adopt the following policy: (a) stations from other markets which are carried by a cable system pursuant to the significantly viewing test should not have any of their programming deleted; (b) while significantly viewed stations will not have their programs deleted, they in turn should not be entitled to non-duplication protection unless the cable system is also located within the 35-mile zone of the significantly viewed station. NCTA notes that the Commission stated in its *First Report and Order*,

> Our purpose was and is to preserve the existing off-the-air situation, insofar as exclusivity is concerned, and not to give stations any greater exclusivity vis-a-vis CATV systems than they now enjoy as against each other * * * Our aim is to preserve for stations the competitive exclusivity they have been able to obtain as against stations, but nothing more. (38 FCC 720).

It is argued that nothing has been presented since this view was first articulated to justify its abandonment by the Commission.

39. *Buckeye Communications, et al.*, argue that the rules act to alter the existing competitive situation among broadcasters by increasing the local station's monopoly. In the absence of cable service, the "local" station, would be forced to compete with the significantly viewed signal. With cable, the local station is insulated from this competition. It is one thing to argue that local stations might be adversely affected by cable importation of signals which they would not ordinarily be forced to compete against; however, it is clearly another matter to assert that local stations should be further protected from existing competition. In the first case, cable creates new competition which would not otherwise exist. In the latter situation, it does not. In the first case, the local station might deserve some protection from this new, perhaps artificial competition. In the latter case it does not.

b. *Comments of Broadcasters.* 40. Broadcasters oppose any change in the exclusivity rules with regard to significantly viewed signals, stating that the injury which could result from an exception to the non-duplication rules for lower priority significantly viewed stations is very great. They submit that availability of television signals to cable subscribers is irrelevant to the question of availability of network programs to cable subscribers and that there is a critical distinction between television signals and television programs. A cable subscriber may be deprived of access to a particular signal, but this does not mean that he is deprived of viewing the program carried by that signal. They argue that since no network program need be blacked out unless it is available simultaneously on another station carried by the cable system, every network program broadcast by stations carried on the system will be available to its subscribers at the time of broadcast.

41. It is submitted that the non-duplication rules are specifically intended to reflect off-the-air viewing patterns, which have a direct correlation with signal quality. And, while a lower priority signal may meet the Commission's significant viewing test, it is the higher priority signal that will provide a better quality signal in the cable community. Broadcasters argue that in the absence of non-duplication requirements cable would distort the expected off-the-air viewing patterns because the signal quality advantages of the higher priority stations is eliminated by cable.

42. Requiring the deletion of some of the network programming of a "must carrry" station because another "must carry" station that is carrying the same program at the same time places a higher grade signal contour over the cable community is not inconsistent with the Commission's signal carriage rules, as is argued by some cable system operators. Nor does it create an artificial zone of protection for one station against another station with which it would otherwise have to compete off-the-air for viewers in the cable community. First, they submit, only those network programs that are being simultaneously telecast need be deleted, except in the Mountain Time Zone. Neither the station's non-network programming nor any of its network programming that does not simultaneously duplicate the network programming of the higher priority station has to be deleted. Second, in nearly all cases, the lower priority station does not have a truly substantial off-the-air audience for the duplicative programming. Yet, even if a significantly viewed signal is available off-the-air, the non-duplication rules in no way curtail program choice or time diversity. The fact that a cable subscriber may not be able to view a network program on a station available off-the-air which is carrying only duplicative network programming is irrelevant.

c. *Discussion.* 43. We are not persuaded that an exception to our new exclusivity priorities should be made for significantly viewed signals. Many such signals are licensed to communities which are located far more than 35 or 55 miles from the community of the cable television system. As we noted in the Reconsideration of the *Cable Television Report and Order*, the significant viewing test can be used beyond the predicted Grade B contour of a station.[11] However, there is an important drawback to the proposed exception of significantly viewed signals in conjunction with the exclusivity priorities: the ARB data that was the basis for our tables of significantly viewed signals was tabulated on a county by county approach. Accordingly, the *Cable Television Report and Order* acknowledged that "[b]ecause this data is provided on a county-wide basis only, we recognize that *it may not account for variations in viewing levels among communities in the county.*" (emphasis added). Therefore, a signal listed as significantly viewed in a county may not be viewed within a discrete cable community of that county. In short, the designation of a signal as being significantly viewed is by itself, inadequate to exempt it from our nonduplication rules. We recognize, however, that there may be situations in which the network programming of such signals should not be deleted. Accordingly, we intend in the near future to develop a standard so that such signals are not subject to deletion.

[11] *Reconsideration of the Cable Television Report and Order*, 36 FCC 2d 326, 348 (1972).

SPECIFIED ZONES OF NONDUPLICATION PROTECTION

a. *Cable Television Comments.* 44. NCTA submits that if the Commission feels that it must continue to require cable systems to provide nonduplication protection, the rules should at least be modified to provide that only cable systems located within a television market, as defined by § 76.5(f) of the rules, need provide non-duplication. Moreover, exclusivity protection should be extended only to network stations being duplicated by distant signals. It is argued that such a fixed mileage standard would eliminate the uncertainty and disputes caused by reliance on predicted signal contours, resolve inconsistencies between the Commission's nonduplication rules and other provisions of the cable regulations and provide local television stations with all the protection needed to insure that the public interest is properly served. In addition, a fixed mileage standard would substantially eliminate a number of inequities imposed on both cable systems and their subscribers by the present rules.

45. It is argued that many illogical and unfair effects result from the use of signal contour priorities for network program exclusivity purposes. Predicted signal contours do not necessarily reflect either the availability or viewing patterns of off-the-air television signals. Use of predicted signal contours for program exclusivity purposes is intended to protect local television stations against the intrusion of distant cable-imported stations within the local station's natural market. In application, however, contours can cause a local station to lose non-duplication protection within its 35-mile zone as against non-local stations which may place a theoretically higher signal contour over the cable community. The use of contours may also cause a burdensome disruption to both cable subscribers and cable operators when changes in television station facilities result in changes in non-duplication rights.

46. Cable interests point to the 1972 *Cable Television Report and Order* in which the Commission adopted a fixed

mileage standard for signal carriage purposes. It is argued that the same rationale which was used to support the adoption of the fixed mileage standard for carriage purposes applies equally for non-duplication purposes. The fixed mileage zone would provide certainty to both the affected industries and the Commission in terms of application of the rules. At minimum, the Commission should provide a consistency between its signal carriage and non-duplication regulations by limiting the imposition of exclusivity protection to those cable systems located within a television market, that is, within 35 miles of a television station. In addition, the adoption of the 35-mile zone would establish consistency with the Commission's syndicated exclusivity rules, whereby protection is provided only to broadcast stations located within 35 miles of a major market cable system. Refusal to update the non-duplication rules will continue to cause numerous illogical results. Cable interests recite a number of instances in which the application of predicted signal contours create allegedly inequitable situations, and it is submitted that the many unfair effects which result from the use of predicted signal contour priorities for network program exclusivity purposes could be alleviated by the use of a fixed, 35-mile zone. This fixed zone would continue to protect "the essential area for stations' development in the market against unfair competition * * * and preserve the basic integrity of the major markets from an allocation standpoint," without resulting in any substantial adverse economic impact on local stations.

47. NCTA notes that the essential consideration involved is not the extent of cable penetration or audience fragmentation per se, but rather, the effect of cable operations on stations' revenues and profits and their ability to serve the public interest. While a fixed 35-mile zone might result in some audience loss, there would be no significant effect on the ability of television stations to serve their public interest functions. In sum, fixed 35-mile zones for non-duplication would: (a) establish consistency with both the signal carriage and syndicated exclusivity rules; (b) promote certainty in the administration and application of the rules; (c) better reflect actual off-the-air viewing patterns in the cable community; (d) eliminate disruption of changes in non-duplication rights; and (e) minimize carriage problems caused by terrain factors.

48. In its reply comments, NCTA emphasizes that the operation of cable systems outside the 35-mile zone of television of broadcast stations have an insignificant effect, if any, on the revenues of local stations. In response to AMST's allegations that, irrespective of the present impact of adopting a 35-mile zone of protection, the potential for future harm will be enormous as cable grows, NCTA states that any significant increase in duplicative network programming available in a television market is impossible. The Commission's signal carriage rules prohibit cable carriage of duplicating network signals except where they are already significantly viewed off-the-air in the cable community. Thus, except for the potential growth of existing cable systems now carrying grandfathered distant network signals, no new impact can occur. NCTA cites statistical data which, it is argued refutes the examples of potential adverse economic impact in television markets cited by NAB and AMST in their comments. It is also argued that contrary to the contention by broadcasters that signal contours accurately reflect the off-the-air viewing patterns, signal strength contours actually have no significant correlation to audience viewing patterns. To the contrary, they argue, a station's 35-mile zone actually reflects viewing patterns more closely than do contours. Thus, the use of the fixed 35-mile zone for exclusivity purposes would more realistically account for a television station's primary audience.

b. *Comments of Broadcasters.* 49. Broadcasting interests call for the Commission to maintain its current priorities based on predicted signal strength. Since the adoption of non-duplication rules for microwave-served cable systems in 1965, they argue that the Commission has continued to recognize that signal contours provide the most realistic and reliable method of maintaining the appropriate degree of network program exclusivity within a station's market area. Signal contours and their overlap, which vary considerably from station to station and market to market provide a flexible standard which tailors the degree of non-duplication protection to the present and actual needs of each station. In addition, it is argued that the present non-duplication priorities based on predicted signal contours accurately reflect off-the-air viewing patterns. The NCTA, they submit, provides no support for its contention that signal contour priorities do not accurately reflect off-the-air viewing patterns, but simply asserts that non-duplication treatment is not needed beyond the proposed 35-mile zones. Neither does NCTA explain how the "consistency" between the signal carriage, non-duplication, and syndicated program exclusivity rules will aid in preserving off-the-air viewing patterns. AMST asserts that the network program exclusivity, syndicated programming exclusivity and carriage rules serve complementary but not identical functions. The availability of network non-duplication beyond the 35-mile zone out to the Grade B contour was the predicate for the Commission's decision to permit unlimited importation of distant signals outside 35-mile zones and to limit the syndicated programming exclusivity rules to the top 100 television markets.

50. Broadcasters contend that reducing non-duplication rights to a 35-mile zone would result in severe fragmentation of the total viewing audience. Both AMST and NAB as well as a large number of individual broadcasters filing comments have submitted data in support of their contention that a fixed 35-mile zone of exclusivity would cause them financial injury. They argue that the area between the 35-mile zone and a station's Grade B contour is vital to the economic well being of local broadcasters. This is the area in which program exclusivity protection is needed most, and stations cannot afford to write off this portion of their audience. Cable interests, they say, have the burden of proving that any modification to the rules will be in the public interest, not merely in the interest of the cable industry. It is argued that any relaxation of the present rules will infringe on and subvert television stations' exclusive rights to broadcast network programs in their respective coverage areas, and will render their contractual rights meaningless. Whether the loss of audience resulting from a reduction in protection amounts to 1%, 10% or 50%, broadcast stations argue that they would be directly paying for benefits innuring to the cable industry, thereby subsidizing this competing industry more than it does now. It is stated that NCTA's study on the potential impact of the proposed 35-mile zone understates the actual number of television households which would have an appreciable impact on broadcast stations.

51. In joint comments filed by a number of television licensees, it is argued that the Commission in its *Notice* failed to mention the important role of non-duplication protection in the signal carriage scheme. In particular, they advert to the fact that the Commission permitted distant network affiliated stations to be carried on a grandfathered basis, since local stations' network programming would be protected by the non-duplication rules. In case after case, importation of distant educational television stations has been justified, over the protests of local educational stations, on the notion that the local educator would receive network program exclusivity. The erosion of the limitations on the importation of outside signals and the decisions by the Commission under both the former and present cable rules illustrate interdependence of the availability of outside signals and the existence of present non-duplication rules. No one, they suggest, least of all the Commission, can in good faith ignore this history of authorizing distant signal importation predicated on the continuing availability of network non-duplication protection.

52. In response to the proposal to limit non-duplication protection rights to the 35-mile zone, broadcasters have presented statistical data intended to establish that a large portion of a television station's audience is frequently drawn from outside the 35-mile zone and that the proposed cut-back in non-duplication protection would result in a severe fragmentation of that audience. As the cable industry grows and penetration in various television markets increases, the adverse impact of a 35-mile zone limitation on non-duplication rights would increase as well. It is suggested that NCTA's data on the impact of a cutback to a 35-mile zone is wholly unreliable. Broadcasters unanimously argue that neither a one-year test period nor a moratorium as suggested by NCTA is warranted. They

state that estimates of the effects of a reduction in non-duplication protection can be made on the basis of available information, and predictions of impact based on currently demonstrable audience viewing patterns provide adequate evidence of the damage that would result from the proposed changes. A meaningful test, it is argued, would require suspension of non-duplication protection to a broad cross-section of stations, which in some small markets could cause a struggling UHF network affiliate to fail. It is submitted that the public interest should not be sacrificed simply to prove that a relaxation of the non-duplication rules will lead to audience fractionalization in significant proportions, with a consequent loss of revenues to television stations and service to the public.

c. *Discussion.* 53. The underlying reason to afford a station's network programming a certain degree of protection against duplication has been to guard against any substantial threat to the station's economic viability which could result from fractionalization of the station's audience and a consequential loss in advertising revenues. Although it has undergone certain modifications,[12] the present scheme of protection has been in effect since 1966, when we released our *Second Report and Order, supra.* In this proceeding, we have examined whether, in their reliance on signal contours as the basis for nonduplication priority, the existing rules have been accomplishing their intended purpose. In addition, we attempted to discover whether the operation of the priority provisions has produced any unexpected problems which could be eliminated through revisions of the rules. Our review has convinced us that the following aspects of a reliance on contours seem to frustrate rather than promote the attainment of a rational policy of network program nonduplication: (1) the contour method essentially bases stations' entitlement to protection on antenna height, effective radiated power, and channel assignments rather than on economic need; (2) in congested areas, overlapping contours of stations from different markets create impractical and often confusing areas of protection; and (3) the Commission has encountered certain administrative difficulties associated with the contour method such as a want of long term stability in station facilities and frequent disparities between predicted and actual contours.

54. As to the economic basis for exclusivity rights, it has been argued that in many instances the contour method of determining a station's priority can create an area of protection which exceeds the actual area that the station purports to serve and in which it enjoys a substantial over-the-air viewing audience. Indeed, we have acknowledged that contours merely estimate a station's coverage area. We have recognized that modifying factors such as terrain may cause the station's true arc of coverage to vary substantially from the estimated area.[13] More importantly, because signal contours are the product of antenna height, effective radiated power, and channel assignment, it has become apparent that the contour method tends to confer greater protection on stations with advantages in those areas regardless of their economic need. Thus, a VHF station with greater antenna height, greater effective radiated power and an advantageous channel assignment, by virtue of its more expansive signal contour, will enjoy a greater area of protection than a less powerful UHF station, and without regard to their respective requirements for such protection.

55. Another factor which has inhibited the administration of a sound policy is the problem of contour overlap. In heavily congested areas east of the Mississippi and on the West Coast, there are many overlapping signal contours from stations in different television markets. As a result, many less powerful stations actually lose protection or are even deleted from cable carriage within their own Grade A and Grade B signal contours because the expanded contours of more powerful stations from other markets overlap, giving the more powerful stations equal or even higher priority. The overlap problem appears particularly acute in economically weak markets where less prosperous, less powerful stations may be subject to over-the-air competition from more powerful stations. Consequently, less powerful stations may suffer the additional adverse effect of the loss of cable carriage or protection due to overlapping contours.

56. Because they are likely to change with modifications in a station's antenna height, transmitter site, or effective radiated power, signal contours lack long term certainty as a means of indicating what a station's exclusivity rights are. Since certain expenses are involved in the switching and deletion required for non-duplication protection, the financial planning undertaken by cable operators is subject to sometimes fluctuating contours of local stations. Television broadcast stations may also be hindered by having to revise their requests for protection with changes in facilities and signal contours. The Commission's enforcement role is made more difficult by the fact that such rights and obligations can so easily change. Because of the difficulty in determining actual signal contours, determinations of station priority and the right to protection are generally based on predicted contours which are simply statistical predictions of the probability of various signal levels being received in certain areas.[14] Consequently, we are well aware that the predicted contours will not always comport with the actual contour.[15] Although the predicted contour is a useful rule of thumb, controversies can arise where a disparity exists between a station's predicted and actual contour. In such situations, our rules do not require a cable television system to provide protection when the system can show that the requesting station does not place an actual signal contour over the system's community.[16]

57. As an alternative to the contour method, we are adopting a scheme of station priorities based primarily on certain fixed mileage zones which surround television stations. We believe that a fixed mileage zone will eliminate many of the problems we have encountered in administering the contour priority system and will more accurately meet a station's need for protection. The basic 35-mile fixed zone of protection is a zone with a radius of 35 miles surrounding a specified reference point in each designated community in a television market. These zones will parallel the signal carriage specified zones we adopted in the *Cable Television Report and Order.* Cable television systems will now be required to protect the network programming of local television stations against simultaneously duplicating lower priority stations in accordance with the following priorities:

1) First, protection must be extended to all television broadcast stations within whose 35-mile zone the community of the system is located, in whole or in part;

2) Second, in addition, protection must be extended to all stations licensed to smaller television markets within whose secondary zone of protection the community of the system is located, in whole or in part. The secondary zone of protection extends for an additional 20 miles beyond the 35-mile specified zone described in (1) above.

Thus, while all television broadcast stations will be limited to protection within a primary zone of 35 miles, smaller market stations will be entitled to a secondary zone extending out to 55 miles. Protection must also be accorded to noncommercial educational stations in the following manner: (a) the network programming of educational stations licensed to a community located within a major television market as defined in § 76.51 of the rules must be afforded protection against duplication within a 35-mile specified zone calculated from the reference point or main post office of such community; and (b) all other noncommercial educational stations must be afforded the same degree of protection as smaller market stations, or a 55-mile secondary zone. It should be noted that just as in the former scheme of priorities, a cable system is required to protect a

[12] The 1966 Rules, for example, provided for protection on a same day basis. However, simultaneous protection later became the rule for all areas of the country except the Mountain Time Zone, for which the same day scheme of protection was retained. *Reconsideration of Cable Television Report and Order,* FCC 72-530, 36 FCC 2d 326, 338 (1972).

[13] *First Report and Order in Docket 14895 and 15233,* 38 FCC 683, 718, (1965).

[14] We refer to the "TV Technical Standards" at Part 73 of the Rules.

[15] See, e.g., *Staunton Video Corporation,* FCC 75-328, —— FCC 2d —— (1975) and *Meadville Master Antenna, Inc.,* FCC 72-255, 34 FCC 2d 358 (1972).

[16] *Community Services, Inc.,* FCC 70-244, 21 FCC 2d 719 (1970).

station only against another station of lower priority. Accordingly, where a cable system's community is situated within the respective 35-mile zones of two stations, the system is not required to protect one station by deleting the programming of the other, equal priority station. Neither is a cable system situated within the respective secondary zones of stations from different smaller markets required to protect one station by deleting the other. Although not entitled to protection against each other, two stations of equal priority are both entitled to protection against lower priority signals which may be carried by the same cable television system. However, we believe there is one situation which does not warrant the extension of protection to a station throughout its secondary zone. Where a cable television system's community is located within only a station's secondary zone, the system will not be required to protect such station by deleting the duplicative programming of either a commercial or noncommercial educational station licensed to a major market community whose reference point is within 55 miles of the system's community. (See § 76.92(f).) Otherwise, there would be many instances in which the application of these new zones of nonduplication protection would cause the signal of the closer and usually more accessible station to be deleted. Finally, a 100 watt or higher power television translator station which is licensed to the community of a cable television system is entitled to a certain degree of protection. A cable television system operating in a community to which such a translator is licensed is required, upon proper request, to protect the translator's network programming against duplication by any television broadcast station licensed to a community more than 55 miles from the system's community. However, because it extends a signal beyond its parent station's service area, a translator licensed to the community of the cable television system but located beyond the predicted Grade B signal of its parent station will not be entitled to non-duplication protection.[17] In addition, when a cable television system operates in a community located within either the primary or secondary zone of protection of a television broadcast station, the system will not be required to delete the duplicating network programming of a television translator station which is also licensed to the system's community. As Appendix C to this Report and Order, we have attached a diagram illustrating the operation of these new zones of protection.[18]

58. *Hyphenated Markets.* The rules that have been in force to date have not distinguished between hyphenated markets and non-hyphenated market stations with respect to their right to protection against duplication by lower priority stations. We recognize that the replacement of a system of priorities based on signal contours with priorities established by fixed mileage zones might alter both certain stations' areas of protection and particular cable television systems' obligations to provide protection. Because of the unique characteristics of hyphenated television markets,[19] a question arises as to what impact these changes might have on stations and cable television systems located within such markets. Moreover, if the changes have a significant impact, there may be a need for special provision with respect to protection of network programming in these markets. However, a comparison of the areas of protection of hyphenated market stations and the corresponding obligations of cable television systems to protect such stations under the old and the new systems of determining priorities failed to disclose that there is any threat of an adverse impact sufficient to warrant special treatment. Therefore, we will not distinguish between stations located inside or outside hyphenated television markets for purposes of the network program nonduplication rules.

59. We are adopting fixed mileage zones of protection because we believe this approach will bring about both greater ease in administration and equity in operation. However, because different considerations underlie our signal carriage and network program non-duplication policies, we have not attempted to create zones of non-duplication protection which precisely parallel the signal carriage specified zones. (We refer to the secondary zone of protection for small market stations.) Nonetheless, it should be remarked that it has been our experience that the 35-mile specified zone is a workable, convenient and realistic estimate of most station's basic area of service and the additional or secondary zone for smaller market stations takes into account population density differences between large and smaller markets. These fixed mileage zones have a number of additional advantages which add to its suitability as a standard for determining priority. With fixed, 35 or 55-mile zones of protection, stations of varying signal strength are placed on a more equal footing. No longer will stations with advantages in such areas as antenna height, channel assignment and effective radiated power be given a prima facie right to a greater zone of protection, regardless of their need for such protection. In addition, the use of zones will create very few overlaps. Thus a reduction in overlaps will restore areas of protection to many less powerful stations and will eliminate potential problems in economically weak markets in congested areas of the country. By not requiring protection in a secondary zone for cable television systems also located within 55 miles of a major market station, we have also attempted to prevent program deletion where the major market station may actually be as close or closer to the cable television systems' community than the smaller market station in question.

60. Since fixed mileage zones do not fluctuate with changes in antenna location, transmitter power, or other adjustments in broadcast facilities, we expect them to provide a reliable and consistent means of determining present and future rights and obligations in the area of network program non-duplication. The new zones of protection are based on our specified zone concept, for which the reference points are well-defined and the mileage radius easily determined. Thus, use of these zones of protection should be free of the error and controversy which plagued the contour method. After examining the zone of protection of television stations pursuant to the contour-based scheme and the fixed mileage zone proposal, we are convinced that the advantages of the latter system clearly outweigh the consequence of what little protection may be lost in the process. We anticipate that the change from the old priorities to the new zone definitions will be accomplished easily and with a minimal impact on television broadcast stations. However, we recognize that there may be circumstances which will warrant a departure from the general application of these new priorities, but their disposition must be considered in our special relief process.[20]

General Exemption for Smaller Cable Systems

a. *Cable Television Comments.* 61. NCTA proposes that the Commission exempt all cable systems with fewer than 1,500 subscribers from having to provide any non-duplication protection. It is argued that while it is impossible to present data based on actual experience, all research clearly suggests that broadcasters will not suffer any significant economic harm from such an exemption. Cable interests cite the *Report and Order in Docket 18785, supra,* where the Commission adopted an exemption from the rules for cable systems having fewer than 500 subscribers. They argue that the rationale for the 500 subscriber exemption is equally applicable for systems with fewer than 1,500 subscribers. That is, such small cable systems are unduly burdened by the non-duplication rules and exempting them from com-

[17] Although we are now utilizing the presence or absence of a predicted Grade B contour to determine a translator station's right to nonduplication protection, we expect to replace the reference to the predicted Grade B contour with a fixed mileage standard in the near future.

[18] In the former rules, § 76.91(c), provided nonduplication protection to stations licensed to small television markets which were carried by systems located outside all markets pursuant to § 76.57(a)(4). Such smaller market stations are listed as being significantly viewed in the county wherein the community of the cable television system is located. This provision has been eliminated because the 55 mile zone of protection which our new rules accord to smaller market television stations should provide adequate non-duplication protection.

[19] See Paragraph 87, *Cable Television Report and Order,* FCC 72-108, 37 FCC 2d 143, 176 (1972).

[20] *See, e.g., Community Service, Inc., supra,* and *Staunton Video Corporation,* FCC 74-692, 47 FCC 2d 851 (1974), *recon. denied,* FCC 75-328, — FCC 2d —— (1974).

pliance with the rules will have no adverse economic impact on local broadcasters. The Commission, they contend, has seen no evidence, of any adverse effect from the existing exemption nor has it been presented with a persuasive showing that there would be such impact from the proposed exemption. NCTA has submitted to the Commission a study of 52 television markets, which purports to show that in the most highly penetrated cable markets a 1,500 subscriber system exemption would affect at most 4.1% of the total ADI–TV households in each market. The actual revenue loss would constitute a much smaller figure (less than half) when factors such as market share, the number of competing stations in a market and prime time viewing audience are taken into account.

62. NCTA acknowledges that there would be some loss of non-duplication protection should smaller cable systems be exempted from the rules. However, it is not this loss that is at issue, but rather the effect of such loss on a station's ability to serve the public interest. Cable systems having fewer than 1,500 subscribers are burdened by the non-duplication rules because such systems do not have the technical personnel to adequately handle the numerous problems which arise because of the rules. It is submitted that cable systems having fewer than 2,000 subscribers employ, at maximum, one or two technicians to handle all aspects of operating a cable television system. The true costs of compliance with non-duplication requirements go far beyond the purchase of costly non-duplication switching equipment. Non-duplication constitutes a continuing source of economic drain, loss of customer good will, and constant frustration for almost all cable operators, especially the operators of small systems. While the economic burdens imposed on the operator in terms of equipment and manpower costs can more easily be documented, these constitute but a small part of the problems inherent in providing non-duplication protection. The best evidence of the adverse consequences to cable television operators which stem from the non-duplication rules is found in the constant flow of emotional complaints and petitions which are directed to the Commission. These complaints, pleas for relief, and demands for elimination of the non-duplication rules come from cable operators, cable subscribers, city councils, and members of state legislatures and the United States Congress. The Commission cannot possibly believe that these countless subscriber complaints and city council resolutions are merely the result of contrived efforts by cable operators.

63. Cable interests submit that the Commission should continue to base any exemption on the concept of the number of subscribers served by a system rather than, for instance, pursuant to a formula based on the total population of a community. Such a formula tends to disregard average penetration figures which are utilized under a community population approach. As long as the Commission continues to justify its nonduplication protection on the concept of theoretical fractionalization of audience, it is only the system's size which is the relevant factor. Moreover, such a rule, based on the number of subscribers, is the simplest and most rational basis for an exemption, and the 1,500 subscriber level is the minimum level at which such an exemption can reasonably be established. NCTA notes the argument by some broadcasters that new cable systems which commence operation in large communities should not be able to obtain an exemption from the non-duplication rules when the system is first constructed. As subscribership grows beyond the established exemption level, broadcasters argue that subscribers will be accustomed to receiving duplicating stations, thus making it unlikely that the system will voluntarily begin compliance. NCTA responds by stating that under the 1972 cable television rules cable systems located within television markets are not entitled to import distant network stations. Therefore, such new systems could carry no distant network stations on their duplicating programming and the exemption would not come into play.

b. *Comments of Broadcasters.* 64. Broadcasters suggest that despite their constant complaints, cable operators have offered little data to substantiate the existence of the alleged burden of providing non-duplication protection. AMST argues that over half of the cable systems in existence today began operations after the 1966 exclusivity rules were adopted, and at the time that they commenced operation, the cost of providing non-duplication protection was a cost that cable operators could reasonably anticipate. The fact that these operators entered the cable business with full knowledge of these costs and that cable systems have grown and prospered since 1966 indicates that the cost and inconvenience of providing non-duplication is not nearly as burdensome as is now alleged. It is argued that if the proposed 1500 subscriber exemption is adopted, the resulting loss of protection would be significant for most stations. And, if this exemption were coupled with an exemption for systems outside the 35-mile zone of television markets, the loss of protection would be staggering. It is argued that all broadcast stations regardless of size must abide by the same rules no matter how burdensome. Cable systems should be treated no differently.

65. It is argued that any exemption based on the number of cable subscribers, even one which properly accumulates the subscribers served by integrated cable operations spread over several communities (the headend approach), presents serious administrative difficulties and invites abuse. The number of subscribers to a cable system constantly changes. Thus, a system might qualify for the exemption one day and on the next be subject to the non-duplication requirements. There is also no readily available, up-to-date source of information by which the number of subscribers to a particular system can be ascertained. The FCC Form 325 is filed once a year, is not available for several months after it is filed, and is of little value in many cases since it is out of date with respect to the subscriber count shortly after it is mailed to the Commission. AMST suggests that an exemption based on community size rather than system size would eliminate some of these problems. Community size, they submit, does not change with such rapidity and population statistics are more readily available and have the virtue of not being within the sole knowledge of the party seeking the exemption.

66. Broadcasters assert that neither the capital investment in switching equipment nor yearly operating costs are large in either an absolute sense or relative to overall cable revenues. It is argued that none of the cable comments suggested that the continued existence of any cable system has ever been placed in jeopardy by requiring compliance with exclusivity rules. Nor has it been suggested that any cable system's ability to provide services has been diminished. Hence, it is argued, the threatened injury from compliance with the non-duplication rules would at most mean a reduction of profits, and while there is an understandable interest in maximizing profits, that interest pales when compared to the very real danger to the continued viability of local television service that a 1,500 subscriber exemption would create. Various broadcasters presented data which allegedly indicate that a 1,500 subscriber exemption would result in audience fragmentation which would only worsen as cable penetration in an area increased. It is argued that NCTA's data with regard to the 1,500 subscriber exemption bears no relation to reality, that no other cable party has offered more than unsupported assertions, and that in contrast, broadcasters have submitted data which reliably indicates the potential harm such an exemption would cause.

c. *Discussion.* 67. In our notice, we requested comments on the question of whether a general exemption from the non-duplication rules should be adopted for cable systems having fewer than 1,500 subscribers. Cable television interests either supported the proposed 1,500 subscriber exemption or suggested that a much higher figure, such as 3,500 subscribers per system, would be more appropriate. Broadcasters generally argue that an exemption for cable systems having fewer than 1,500 subscribers would result in severe adverse economic impact to many television stations, and that no exemption from the rules is warranted. Both sides in this controversy submitted statistical data to support their respective positions. NCTA's extensive exhibit allegedly shows that even in those television markets having a high degree of cable television penetration, there could be only the most minimal impact resulting from a 1,500 subscriber exemption. A number of broadcasters, however, submitted data showing that the adoption of the proposed exemption would result in

substantial adverse economic impact on a number of television broadcast stations.

68. On April 4, 1974, the Commission released its *Report and Order in Docket 18785, supra*. In that proceeding, the Commission promulgated § 76.95(c) of the rules to exempt any cable television system as defined in § 76.5(a) having fewer than 500 subscribers from the network program exclusivity rules.[31] In *Docket 18785*, we determined that small cable television systems serving fewer than 500 subscribers are unduly burdened by the financial and manpower expenditures which are necessitated by the non-duplication rules and that exempting such systems would have no significant adverse economic impact on broadcasters.[32] *Docket 18785* was limited solely to the question of whether an exemption for cable systems having fewer than 500 subscribers should be adopted. In effect, it served to promulgate as a formal rule what had hitherto been a processing policy. That proceeding did not examine the propriety of other exemption levels, unlike our deliberations in *Docket 19995*.

69. Intimately entwined with the question of what a proper exemption level for cable systems may be, has been the question of whether, for purposes of exemptions, the Commission should use its administrative definition of a cable system based upon a "community" concept (see § 76.5(a)) or whether we should employ a "headend" or integrated system concept. Under the 500 subscriber exemption adopted in *Docket 18785*, the "community" concept was retained. However, following a closer scrutiny of the question, we have determined that the use of the headend or integrated system concept is more appropriate for determining when exemption is warranted. In fact, generally both broadcasters and cable operators agree that the headend concept is more appropriate for this purpose. Since we are concerned with the manpower, financial, and technical resources of a cable system, as well as the total number of subscribers served by a commonly owned and technically integrated unit, the headend concept more accurately reflects these factors.

70. Our underlying rationale for exempting small cable systems from the non-duplication rules was fully expressed in our *Report and Order in Docket 18785*. We determined that while the expenditures for equipment and manpower made by small systems in order to comply with the non-duplication rules have a substantial financial impact on such systems when viewed in relation to their gross revenues, any adverse economic impact on local broadcasters which could result from exempting small systems would be minimal. In addition, last minute program schedule changes, special events and overruns, and malfunctioning equipment difficulties compound the problems normally encountered by small cable systems in complying with these rules. We must measure this inconvenience against the potential harm to broadcasters which might result from any new exemption.

71. We have studied numerous factors which might bear on this matter, and have examined the statistical variables which affect both cable and broadcast operations in the United States. Based upon all of the information at our disposal, we have decided to adopt an exemption from our non-duplication rules for cable systems serving, on a headend basis, fewer than 1,000 subscribers. We believe that the likelihood of significant adverse economic impact on broadcasters could increase sharply if systems having more than 1,000 subscribers were exempted from the rules. On the other hand, an exemption for cable systems with fewer than 1,000 subscribers would not pose the prospect of unacceptable impact for the overwhelming majority of stations. In our opinion, it would not be appropriate to risk the effects of a higher exemption at this time. This relaxation of the rules will serve the convenience of subscribers and benefit smaller cable systems for whom the cost of switching is generally a significant expense. A 1,000 subscriber exemption should produce a relatively small increase in the number of systems and subscribers previously exempt under the "500" rule. Under our current "500 subscriber" exemption, approximately 1,965 of the 5,035 operational cable television systems need not comply with the program exclusivity rules. Assuming a maximum of 499 subscribers per system—which is a generous assumption to make—some 980,535 subscribers are affected. This figure represents approximately 12 percent of the estimated 9.5 million subscribers to cable television systems nationwide. Employing the "headend" approach, the number of systems serving fewer than 1,000 subscribers is 1,428.[33] Making another generous assumption that each system serves 999 subscribers, the total number of subscribers affected by an exemption of 1,000 per headend rises to 1,426,572 or 14.7 percent of all cable television subscribers. It is important to keep this figure in perspective, especially when we know that the total television households affected by this exemption to our exclusivity rules is on the order of 1/69th of all television households.[34] Weighing the small impact of this new exemption against the cost and inconvenience of compliance for quite small business operations, we are persuaded that the adoption of this new rule will serve the public interest.

72. As with any general rule of this sort, there may be cases where, due to a proliferation of small cable systems in a particular television market, there will be a likelihood of substantial adverse economic impact on local television stations. In such cases, broadcasters may file petitions for special relief showing the likelihood of such impact. These petitions will be handled on a case by case basis and an appropriate relief will be granted where it can be shown that the alleged adverse economic impact is or will be sufficient to result in a diminution of a station's ability to serve the public interest. Finally, in response to the assertion by broadcasters that it will be difficult to determine when a system is no longer entitled to an exemption, we are also adopting a new rule which will require that, within sixty days of the acquisition of 1,000 subscribers by a cable system, a statement to that effect must be filed with the Commission. It shall be available for inspection at the Commission's offices. In addition, the cable operator must provide a copy of this statement or the data contained therein, to any television or translator station carried on his system.

Program Overruns

73. Our overall review of the many issues inherent in administering a regulatory program such as nonduplication is complicated by a consideration of the sporadic problem of program overruns. The National Cable Television Association has proposed that cable television systems should not be required to provide network program exclusivity protection for a reasonable period of time following the carriage of a duplicative program which has an indefinite time of completion. Specifically, they suggest that if, for whatever reason, there is a possibility that the actual running time of a television program, emanating from either a local or distant broadcast station, may not correspond with the program's scheduled time of completion, a cable operator should be relieved of the duty to provide non-duplication protection for two hours following the program. They propose that in the evenings and on weekends a cable operator should be freed totally from non-duplication requirements following a program with an indefinite time of completion, for the remainder of the day and evening. They assert that such a provision would avoid "clipping" (i.e., cutting off of the beginning or end of a program) of network and non-network shows and would allow a cable operator sufficient opportunity to reprogram his non-duplication switching equipment. Broadcasters contend that

[31] On May 10, 1974, the Association of Maximum Service Telecasters, (AMST) filed a "Petition for Reconsideration and/or Modification of the Report and Order in Docket 18785." The National Cable Television Association (NCTA) filed an opposition to the AMST petition on May 24, 1974, and on June 10, 1974 AMST replied. In light of the rule changes which we are adopting in this document today, AMST's reconsideration petition is now moot. The petition for reconsideration, therefore, is hereby dismissed, and the proceeding in Docket 18785 is terminated.

[32] Since the adoption of former § 76.95(c), no television stations have filed petitions claiming that this exemption has produced adverse financial impact on their operations.

[33] These figures are extrapolated from data reported to the Commission on FCC Form 325 and information gathered by *Television Digest, Inc.* and reported in the *Services Volume, Television Factbook*, 1973–74 edition.

[34] *Television Factbook* reports a figure of 68,538,900 television households as of September, 1973.

program runovers occur so infrequently in situations where they could cause a loss of programming for cable subscribers that elimination of non-duplication protection for a period of time following potential program runovers is an overly broad and unnecessary remedy to the problem.

74. There are a number of different types of programs which may have indefinite times of completion. Special events, unscheduled Presidential press conferences and most sporting events are the types of programs which present potential runover situations. While actual runovers may occur with relative infrequence, we believe that the loss of programming they may occasion when they do occur is a matter deserving special consideration. Certainly, the public is not well served when portions of television programs are unnecessarily deleted due to the operation of our rules.

75. NCTA contends that cable systems should be relieved of the duty to provide non-duplication protection following any program which "experience has demonstrated" will potentially run over its scheduled time of completion. Only this remedy, they argue, can prevent a loss of programming. We believe, however, that such an approach is too speculative to be a rational solution to the problem since there are a great many programs which may potentially run over their scheduled completion time. For the Commission to relieve cable systems of their non-duplication duties in all cases where the mere possibility of a runover exists would, as broadcasters have suggested, be an overly broad resolution.

76. The most common situation in which a runover is likely to occur involves the live broadcast of sports events. Only in rare instances do films or other types of programming run beyond their scheduled completion times. While the inconvenience to cable operators which may be caused by runovers is, unfortunately, unavoidable in most cases, our primary concern is the potential loss of programming to cable subscribers which may occur when a switcher cuts off the signal of a lower priority station prior to the completion of a program. Since it is virtually impossible to determine in advance when an overrun may occur, it is difficult for a cable operator to reach his switching equipment, which may be remotely located, in time to prevent clipping of the beginning or end of another program. In order to alleviate what appears to be the most common overrun problem, we are adopting § 76.95(c) which will relieve cable systems of the duty to provide non-duplication protection for one hour immediately following the scheduled time of completion of a live sports event. This rule will permit the cable operator to pre-set his switching equipment so that no loss of programming will occur. In addition, this one hour "grace period" will allow sufficient time for a cable operator to re-program his switching equipment in those situations where a network reschedules its programs following a sports event.

77. The rule we are adopting will not resolve difficulties which may arise due to runovers caused by Presidential news conferences, Congressional hearings or other special events. However, it is our view at this time that in order to deal with such situations we would have to adopt a rule which we believe would be unnecessarily broad in its prospective application.

PROCEDURES AND SANCTIONS

a. *Comments of Broadcast Interests.* 78. Approximately 50 comments submitted by broadcasters addressed the subjects of procedures and sanctions. Although there was a fairly wide variety of solutions offered, mostly in the area of sanctions, only 20 of the comments specifically stated that the present notification procedures were adequate. A number of respondents criticized the Commission for the length of time required to process requests for orders to show cause. The broadcasters' most popular proposal for ensuring proper exclusivity protection was that the Commission review "exclusivity logs" which cable operators should be required to maintain. In this connection, it is noted that the Rocky Mountain Broadcasters Association (RMBA) has submitted a "Petition for Rule Making" (RM-2376) requesting that cable television systems be required to maintain logs reflecting the stations and programming carried, as well as programs deleted pursuant to our exclusivity rules. RMBA would have cable operators submit a weekly composite log to the Commission for review.[*] Others criticized the present procedure whereby cable operators can request weekly notification, suggesting that seasonal master schedules provided adequate notification. A few broadcasters, whose stations are carried by 70 or more systems, recommended that cable operators bear the full burden of finding programming protected by the exclusivity rules and deleting it without requests. Another broadcaster indicated that all inequities in the present system would be resolved if stations themselves did the switching. Five of the comments proposed that cable systems should certify to the stations and the Commission that exclusivity protection is being provided. A few of the comments suggested that lower priority signals should be required to provide cable operators with programming schedules. Others recommend that a standard exclusivity notice form be adopted by the Commission, a recommendation supported by the Association of Maximum Service Telecasters (AMST). In addition, AMST, apparently recognizing that present procedures are inadequate, proposed that a Joint Advisory Committee composed of representatives of both industries be established to examine the notification procedures.

79. All comments addressed the question of sanctions against cable operators and unanimously concluded that the present remedies are inadequate. Most of the comments criticized the automatic stay provision in § 76.97 and the length of time the Commission took to act on waiver requests. Likewise, the comments reflected frustration with the fact that the only remedy available to stations not provided exclusivity was a petition for an order to show cause. The solution proposed by the vast majority of comments demanded that cable operators be subjected to forfeitures for violations of the exclusivity rules. As an extreme penalty, a broadcaster proposed that the cable operator permanently delete the lower priority signal for failure to provide proper protection. Others felt that revocation of a cable system's certificate of compliance was justified if protection was not provided. One broadcaster went so far as to suggest that the Commission monitor all cable systems to insure compliance with the exclusivity rules.

b. *Comments of Cable Interests.* 80. 67 comments were filed by cable operators of which 37 offered various recommendations for changes to the present rules. There was unanimous agreement that the present notification procedures do not prevent the loss of programming to subscribers where last minute scheduling changes by requesting or lower priority stations result in non-protected programming. Many cable operators would have the Commission require stations to provide current programming information on a weekly basis with daily updates phoned to cable systems. Some comments suggest that requesting stations be required to submit schedules of lower priority stations. Most cable operators argue that programs following sports presentations and special newscasts should be exempted from protection for the remainder of the broadcast day. As for sanctions, cable operators argue that no protection should be required where the requesting station has submitted incomplete, inaccurate, or untimely notification. Some cable operators contend that any loss of programming caused by improper notification should result in the permanent loss of exclusivity protection. In this vein, NCTA suggests that the Commission establish and administer a formula which would calculate the extent to which a station would forfeit its right to exclusivity whenever its inaccurate notice caused the cable system to unnecessarily delete programming. Another sanction recommended for stations failing to provide proper notification is forfeiture, similar to present sanctions under section 503(b) of the Communications Act.

c. *Discussion.* 81. As indicated in the comments concerning procedures and sanctions, the present rule (§ 76.93(a)) does not provide sufficient notification guidelines and lacks any provision for enforcement. Another problem resulting from current Commission policy is the loss of non-protected programming to the viewing public. It now seems clear that the keystone for the administration of our exclusivity rules—good faith coop-

[*] The comments and reply comments submitted in RM-2376 have been considered and incorporated in this proceeding, and accordingly RM-2376 will be dismissed as moot.

eration by all parties—has not been effective in preventing complaints from all parties affected-broadcasters, cable operators, and subscribers. Our basic objectives in changing the present rule are threefold: (a) insure that broadcasters receive protection to which they are entitled; (b) establish adequate notification guidelines to enable cable operators to perform their exclusivity responsibilities properly; and (c) prevent inconvenience and loss of non-protected programming to the viewing public. We recognize that there are difficulties inherent in our nonduplication rules which no procedure can prevent. Yet we are convinced that the changes promulgated will alleviate many of the problems encountered to date.

82. It is apparent that many of the broadcasters' complaints would be resolved if expeditious processing of all special relief and show cause petitions could be accomplished.[36] In this regard, we note that the staff of the Cable Television Bureau has been increased to expeditiously process these and other matters. In addition, a recently adopted delegation of authority to the Chief, Cable Television Bureau, empowers him to deny petitions for waiver of the exclusivity rules where such action would be consistent with established Commission policy.[37] This should insure expedited action in routine, non-meritorious cases. We therefore believe that deletion of the automatic stay provision, § 76.97, as recommended by some broadcasters, is unnecessary. Moreover, § 76.97 serves a useful purpose in that it preserves the *status quo* until the Commission has an opportunity to rule on the applicability of the exclusivity rules to the situation at hand. Additionally, we will continue to press for amendments to § 503(b) of the Communications Act of 1934, thereby giving the Commission authority to impose forfeitures on cable operators who violate the Commission's rules.

83. Inconvenience to subscribers should be abated substantially by permitting multi-channel carriage during periods of exclusivity. See paragraphs 28–35. We have also revised our rules to provide an additional exemption for network programming following live sports events which extend beyond their scheduled broadcast period. This change should also significantly reduce subscriber complaints. (A discussion of these revisions will be found at paragraphs 73–77 above.)

84. In the long run these changes will alleviate most of the present problems, but loss of programming to subscribers could continue since programming changes by the requesting or lower priority station are often made without cable systems being notified. Under present Commission policy, broadcasters are authorized to submit seasonal master schedules containing a minimum of information concerning the programming to be protected. Although the Commission expects all broadcasters to cooperate by notifying the cable operator as soon as possible of any changes, a broadcaster has little incentive to inform the cable operator that protection is no longer required. In an attempt to resolve this problem, a provision has been added to the rules to require the requesting station to submit monthly schedules specifically indicating the programming to be protected and the programming of the station to be deleted. We concur with comments filed by both broadcasters and cable operators recommending the use of a standard exclusivity request form. Therefore, we have attached as Appendix B, a *sample* exclusivity request form which, if utilized, should provide the minimum amount of information necessary to enable a cable operator to properly perform exclusivity responsibilities. We emphasize that the use of this format is optional and does not represent a new requirement. With a monthly program schedule at hand, cable operators should be provided adequate advance notice to set switching equipment and check for discrepancies in the request. Most changes in network programming are known well in advance, therefore, we are requiring all broadcasters to advise cable operators of changes to the monthly exclusivity requests eight (8) days prior to the broadcast of the program to be protected.

85. There is one situation which results in loss of nonprotected programming to the viewing public which is much more difficult to resolve. It arises where the lower priority station changes its programming schedule after the requesting station has submitted a request for protection. Here the broadcaster requesting exclusivity has little incentive to check the programming schedule of lower priority stations or to inform the cable operator that its signal is no longer duplicated as previously indicated. Although we recognize that the cable operator has sufficient motivation, such as complaints from subscribers, to check for discrepancies in the exclusivity requests, we will not relieve the requesting broadcaster from the responsibility of determining whether its programming is in fact being simultaneously duplicated after its monthly notice has been mailed or communicated.

86. We cannot agree with the recommendation of some cable television interests that a rule should be adopted which would provide sanctions against television stations submitting improper or inadequate requests for non-duplication protection. Such an action would be premature at this time. The Commission has revised many of the nonduplication rules, including the notification requirements. This new regulatory program should be given a chance to work, and we trust that once these new rules become a matter of routine for both broadcasters and cable operators, the occasion for complaint will have lessened. However, if we are presented with a demonstrated pattern of abuse of the notification procedures which results in the loss of programming to a cable system's subscribers, we shall take appropriate measures, including the suspension of nonduplication rights. For the time being, such matters will be disposed of in our special relief processes.

87. We have also taken this opportunity to make administrative changes in areas related to exclusivity which have proved bothersome over the past three years. We anticipate that the changes promulgated today will enable us to administer the rules more efficiently. First, we have amended § 76.97 to lend precision in determining the date from which to measure the 15-day period in which exclusivity waiver requests must be submitted by a cable system in order to trigger the stay provisions. The change resolves the present ambiguity where, for instance, stations request exclusivity prior to the date operations are commenced by either the cable system or the station itself and prior to the date a cable television headend serves more than 1,000 subscribers. Although the Commission is concerned with abuses in private agreements excepted from the exclusivity requirements, we will not delete the rule which gives full effect to such agreements.

88. It should be noted that in fashioning these changes, we have necessarily omitted proposals submitted by various parties. We rejected the suggestion that the cable systems keep logs reflecting exclusivity protection and file exclusivity reports as overly burdensome for cable operators and administratively troublesome for the Commission. Also we were not persuaded that formation of a Joint Committee consisting of members of both industries, to review present notification procedures, as suggested by the Association of Maximum Service Telecasters is necessary. We reiterate that the changes promulgated today, coupled with good faith cooperation among all parties, provide the means of accomplishing our basic objective of regulation in the public interest.

GRANDFATHERING

89. In recommending adoption of fixed zones of exclusivity to replace the current system of signal contour priorities, cable interests note that in some instances systems will be required to provide non-duplication protection where they did not have to provide it before. They argue that the Commission in initiating its rule making proceeding in *Docket 19995*, did not intend to compound the effect of the non-duplication rules should the data submitted in the comments warrant such a relaxation. NCTA urges that in reducing the zone of exclusivity protection to the area within 35 miles of a television station, the Commission should "grandfather" existing cable television systems. That is, a cable system still subject to non-duplication requirements under NCTA's proposed rule changes would not be required to provide any more protection to a television station than it currently provides.

[36] In this connection, we note that there exists some confusion regarding the appropriate time periods for filing responsive pleadings to petitions for orders to show cause involving cable television systems. These time periods are specified in § 1.45 of the Commission's rules and the Chief, Cable Television Bureau, has delegated authority under § 0.288(a) to act on requests for extensions of time.

[37] See § 0.288(q) of the Commission's rules.

NCTA avers that such a grandfathering provision would not have any adverse impact on television market stations, since the stations are not now entitled to receive such protection and the *status quo* would merely be preserved.

90. We do not believe that the revisions to our exclusivity rules require that we adopt any grandfathering policies regarding cable television systems or television stations which will, in one way or another, be affected by these changes. A system's obligation to provide exclusivity will now be determined by reference to an order of priorities no longer based on predicted signal contours. Those considerations which impelled the extension of grandfather rights to certain cable television systems when the *Cable Television Report and Order* revised the signal carriage rules do not apply with tse same persuasiveness in this proceeding. Without the grandfathering provisions of § 76.65 of the rules, many systems would not have been able to continue the carriage of various signals following the revision of the signal carriage rules. Consequently, their subscribers would have been deprived of cable television service to which they had become accustomed. Since only duplicating network programming is affected by the exclusivity rules, and whatever loss of service implied therein will be substantially ameliorated by the revised rule which now provides for dual or even multi-channel carriage during periods of non-duplication protection, there will not be a consequent withdrawal of service when these rules become effective.

PENDING MATTERS AND FUTURE PETITIONS

91. Although we have adopted new exclusivity rules and procedures, there remain on file pleadings, petitions and other matters which were submitted pursuant to our former rules and which await disposition. Therefore, at this point our intentions regarding their disposition should be outlined in detail.

a. Petitions seeking waiver or enforcement of our former single channel carriage rules (§ 76.55(a)(3)) will be dismissed as moot.

b. Petitions seeking an order to show cause for alleged violation of our former single channel carriage rule (§ 76.55(a)(3)) will be dismissed as moot.

c. Petitions seeking waiver of the network program exclusivity rules:

1) We are instructing the Commission's staff to dismiss all petitions for waiver of our former network exclusivity rules that are clearly moot; e.g., petitions concerning cable television systems serving fewer than 1,000 subscribers from a single headend, and petitions concerning cable television systems where, pursuant to our new zones of protection, no exclusivity protection will be required.

2) All other petitions seeking waiver of the network program exclusivity rules will be dismissed as moot unless, within sixty (60) days of the effective date of the new rules adopted herein, they are supplemented to demonstrate their relevance to our new network program exclusivity regulatory scheme.

d. Petitions seeking an order to show cause for alleged violation of the network program exclusivity rules:

1) We are instructing the Commission's staff to dismiss all petitions seeking an order to show cause for alleged violation of the network program exclusivity rules that are clearly moot, e.g., petitions concerning cable television systems serving fewer than 1,000 subscribers from a single headend, and petitions concerning cable television systems where, pursuant to our new zones of protection, no exclusivity protection will be required.

2) All other petitions seeking an order to show cause for alleged violation of the network program exclusivity rules will be dismissed as moot unless, within sixty (60) days of the effective date of the new rules adopted herein, they are supplemented to demonstrate their relevance to our new network program exclusivity regulatory scheme.

e. Petitions seeking reconsideration or stay of prior Commission actions concerning the network program exclusivity rules:

1) We are instructing the Commission's staff to dismiss all petitions seeking reconsideration or stay of prior Commission actions concerning the network program exclusivity rules that are clearly moot, e.g., petitions concerning cable television systems serving fewer than 1,000 subscribers from a single headend, and petitions concerning cable television systems where, pursuant to our new zones of protection, no network program exclusivity protection will be required.

2) All other petitions seeking reconsideration or stay of prior Commission actions concerning the network program exclusivity rules will be dismissed as moot unless, within sixty (60) days of the effective date of the new rules adopted herein, they are supplemented to demonstrate their relevance to our new network program exclusivity regulatory scheme.

f. Hearing cases: Cases concerning network program exclusivity in which hearings were ordered prior to the effective date of the new rules adopted herein, will be disposed of by Administrative Law Judges and other decisionmaking Commission personnel consistent with our action herein.

g. Petitions seeking interpretative rulings or imposition of additional or different requirements: All petitions seeking interpretative rulings or imposition of additional or different requirements concerning the network program exclusivity rules filed pursuant to § 76.7 will be dismissed as moot unless, within sixty (60) days of the effective date of the new rules adopted herein, they are supplemented to demonstrate their relevance to our new network program exclusivity regulatory scheme.

h. Petitions for waiver, or petitions seeking an order to show cause concerning same day exclusivity in the Mountain Standard Time Zone (§ 76.94(b)) will remain on file pending our final disposition of that matter.

In view of the foregoing, we find that the public interest would be served by adoption of the rules set forth below, effective May 23, 1975. Authority for such rules is contained in sections 2, 4 (i) and (j), 301, 303, 307, 308, and 309 of the Communications Act of 1934, as amended. We further conclude that a final determination on the other aspects of the proposed rule making discussed herein should be the subject of further proceedings.

Accordingly, it is ordered, That effective May 23, 1975, Parts 0 and 76 are amended as set forth below, and the Commission retains full jurisdiction over all other aspects of this proceeding.

It is further ordered, That the "Petition for Rule Making" (RM-2376) filed by the Rocky Mountain Broadcasters Association is dismissed as moot.

It is further ordered, That the "Petition for Reconsideration" filed by the Association of Maximum Service Telecasters in Docket 18785 is dismissed as moot, and the proceeding in Docket 18785 is terminated.

Adopted: April 3, 1975.

Released: April 14, 1975.

(Secs. 2, 4, 301, 303, 307, 308, 309, 48 Stat., as amended, 1064, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 154, 301, 303, 307, 308, 309)

FEDERAL COMMUNICATIONS COMMISSION,[25]

[SEAL] VINCENT J. MULLINS, *Secretary.*

Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

A. Part 0, Commission Organization, is amended as follows:

§ 0.288 [Amended]

1. Paragraph (q) of § 0.288 is amended by deleting "the network program exclusivity provisions of §§ 76.91 and 76.93" following the word "concerning" and substituting the following: "the network program nonduplication protection provisions of §§ 76.92 and 76.94."

B. Part 76, Cable Television Service, is amended as follows:

2. The title of Subpart F is revoked and changed to read as follows:

Subpart F—Nonduplication Protection and Syndicated Exclusivity

§ 76.27 [Amended]

3. In § 76.27, the last sentence is amended by deleting "program exclusivity (§ 76.91)" following the word "and," and substituting "network program nonduplication protection (§ 76.92)."

4. In § 76.55, paragraph (a)(3) is amended by adding a proviso reading as follows:

§ 76.55 Manner of carriage.

(a) * * *

(3) * * * *Provided, however,* That this provision shall not apply to a signal protected pursuant to §§ 76.92 and 76.94, during periods when network program nonduplication protection is provided.

* * * * *

§ 76.91 [Reserved]

5. Section 76.91 is hereby revoked and reserved.

6. A new § 76.92 is added reading as follows:

§ 76.92 Stations entitled to network program nonduplication protection.

(a) Any cable television system which operates in a community located in whole or in part within the 35-mile specified zone of any commercial television broadcast station or within the secondary zone which extends 20 miles beyond the specified zone of a smaller market television broadcast station (55 miles altogether), and which carries the signal of such station shall, except as provided in paragraphs (e) and (f) of this section, delete,

[25] Commissioner Lee absent.

upon request of the station licensee or permittee, the duplicating network programming of lower priority signals in the manner and to the extent specified in §§ 76.94 and 76.95.

(b) For purposes of this section, the order of nonduplication priority of television signals carried by a cable television system is as follows:

(1) First, all television broadcast stations within whose specified zone the community of the system is located, in whole or in part;

(2) Second, all smaller market television broadcast stations within whose secondary zone the community of the system is located, in whole or in part.

(c) For purposes of this section, all noncommercial educational television broadcast stations licensed to a community located in whole or in part within a major television market as specified in § 76.51 shall be treated in the same manner as a major market commercial television broadcast station, and all noncommercial educational television broadcast stations not licensed to a community located in whole or in part within a major television market shall be treated in the same manner as a smaller market television broadcast station.

(d) Any cable television system operating in a community to which a 100-watt or higher power translator station is licensed, which translator is located within the predicted Grade B signal contour of the television broadcast station that the translator station retransmits, shall, upon request of such translator station licensee or permittee, delete the duplicating network programming of any television broadcast station whose reference point (See § 76.53) is more than 55 miles from the community of the system.

(e) Any cable television system which operates in a community located in whole or in part within the specified zone of any television broadcast station or within the secondary zone of a smaller market television broadcast station is not required to delete the duplicating network programming of any 100-watt or higher power television translator station which is licensed to the community of the system.

(f) Any cable television system which operates in a community located in whole or in part within the secondary zone of a smaller market television broadcast station is not required to delete the duplicating network programming of any major market television broadcast station whose reference point (See § 76.53) is also within 55 miles of the community of the system.

§ 76.93 [Reserved]

7. Section 76.93 is hereby revoked and reserved.

8. A new § 76.94 is added reading as follows:

§ 76.94 Notification requirements and extent of protection.

(a) Where the network programming of a television station is entitled to nonduplication protection, a cable television system shall, upon request of the station licensee or permittee, refrain from simultaneously duplicating any network program broadcast by such station only if the cable television system has received the information required in paragraph (a) (1) and (2) of this section:

(1) Notification of the programming to be protected and of the programming to be deleted must be received on a monthly basis, no later than eight (8) days preceding the calendar month during which exclusivity is requested; and

(2) Changes in the monthly notification request required by paragraph (a) (1) of this section must be submitted eight (8) days preceding the programming to be protected.

(b) Notwithstanding the provisions of paragraph (a) of this section, upon request of a television station licensed to a community in the Mountain Standard Time Zone that is not one of the designated communities in the first 50 major television markets, a cable television system shall refrain from duplicating any network program broadcast by such station on the same day as its broadcast by the station. Where a cable system is required to provide same-day network program nonduplication protection, the following provisions shall be applicable:

(1) A cable television system need not delete reception of a network program if, in so doing, it would leave available for reception by subscribers, at any time, less than the programs of two networks (including those broadcast by any stations whose signals are being carried and whose programming is being protected pursuant to the requirements of this section);

(2) A system need not delete reception of a network program which is scheduled by the network between the hours of 6 and 11 p.m., eastern time, but is broadcast by the station requesting deletion, in whole or in part, outside of the period which would normally be considered prime time for network programming in the time zone involved.

9. Section 76.95 is revised to read as follows:

§ 76.95 Exceptions.

(a) Notwithstanding the requirements of §§ 76.92 and 76.94, a cable television system need not delete reception of any program which would be carried on the system in color but will be broadcast in black and white by the station requesting deletion.

(b) The provisions of §§ 76.92 and 76.94 shall not apply to a cable television system serving fewer than 1,000 subscribers or to a conglomerate of commonly owned and technically integrated systems serving fewer than 1,000 subscribers. Within 60 days following the provision of service to 1000 subscribers, each such cable system and conglomerate shall file a notice to that effect with the Commission and shall send a copy thereof to all television broadcast and translator stations carried by the cable system.

(c) Network nonduplication protection need not be extended to a higher priority station for one hour following the scheduled time of completion of the broadcast of a live sports even by that station or by a lower priority station against which a cable system would otherwise be required to provide nonduplication protection following the scheduled time of completion.

(d) The Commission will give full effect to private agreements between operators of cable television systems and local television stations which provide for a type or degree of network program nonduplication protection which differs from the requirements of §§ 76.92 and 76.94.

NOTE.—Technical integration, for the purpose of paragraph (b) of this section, is limited to that accomplished by a local cable or microwave (e.g., a CARS LDS facility) interconnection. Satellite or microwave networking to geographically separated systems of a multiple system owner does not constitute technical integration for the purposes of this section.

10. Section 76.97 is revised to read as follows:

§ 76.97 Waiver petitions.

(a) Subject to the provisions of paragraph (b) of this section, where a petition for waiver of the provisions of §§ 76.92 and 76.94 is filed within fifteen (15) days after a request for network program nonduplication protection is received from a television broadcast or translator station licensee or permittee by the operator of a cable television system, such system need not provide nonduplication protection pending the Commission's ruling on the petition or on the question of temporary relief pending further proceedings.

(b) The fifteen (15) day period specified in paragraph (a) shall not commence until the television broadcast station requesting exclusivity has initiated service pursuant to program test authority as provided in § 73.629 of this chapter, and until the cable television system serves 1,000 or more subscribers or a conglomerate of commonly owned and technically integrated systems serves 1,000 or more subscribers.

NOTE.—Technical integration, for the purpose of paragraph (b) of this section, is limited to that accomplished by a local cable or microwave (e.g., a CARS LDS facility) interconnection. Satellite or microwave networking to geographically separated systems of a multiple system owner does not constitute technical integration for the purposes of this section.

§ 76.99 [Amended]

11. Section 76.99 is amended as follows: Delete "§§ 76.91, 76.93," after the words "provisions of," and substitute "§§ 76.92, 76.94," and delete "network program exclusivity pursuant to § 76.93 (b)" after the word "same-day" and substitute "network program nonduplication protection pursuant to § 76.94(b)."

APPENDIX A

BROADCAST COMMENTS

Abilene Radio and Television Company
Amaturo Group, Inc.
American Broadcasting Companies, Inc.
American Public Life Broadcasting Company
Apple Valley Broadcasting, Inc.
Arkansas Television Company
Association of Maximum Service Telecasters (MST)
AVCO Broadcasting Corporation
Bass Broadcasting Company
Bass Brothers Telecasters, Inc.
Bi-States Company
Black Hawk Broadcasting Company
Boston Broadcasters, Inc.
Brazos Broadcasting Company
Broadcasting Services, Inc., et al.
Brockway Company
Buford Television, Inc.
Calcasiew Television and Radio, Inc.
California Oregon Broadcasting, Inc.
Capitol of Colorado Corporation
CBS, Inc.
CBS Television Affiliates Association
Central Alaska Broadcasting, Inc.
Central Coast Broadcasting, Inc.
Channel Nine of Orlando
Channel Two Television Company
Circle L, Inc., et al.
Clay Broadcasting Corporation
Columbia Empire Broadcasting Corporation
Columbus Broadcasting Company
Cornhusker Television Corporation
Cowles Florida Broadcasting, Inc.
Daily Telegraph Printing Company
Desert Empire Television Corporation
Duhamel Broadcasting Enterprises
Fisher's Blend Station, Inc.
Flower City Television Corporation
Forward Communications, et al.
Four States Television, Inc.
Garryowen Corporation
Henry Geller
Gill Industries, Inc.
Grayson Enterprises, Inc.
Great Lake Communications, Inc.
Great Lakes Television Company
Gross Telecasting, Inc.
Harriscope Broadcasting Corporation
Hearst Corporation
Holston Valley Broadcasting Corporation
Horizons Communications Corporation
Hubbard Broadcasting Company
International Television Corporation
Jersey Cape Broadcasting Corporation
Jet Broadcasting Company, Inc.
Joint Comments of the Licensees of 28 Television Broadcast Stations
Joint Comments of 29 Television Broadcast Station Licensees
Joint Reply Comments of 19 Television Licensees
Kansas State Network, Inc.
KEY Television, Inc.
KID Broadcasting Corporation
King Broadcasting Company
KIRO, Inc.
KMSO-TV, Inc., et al
KOOL Radio Television, Inc.
KSLA-TV, Inc.
KTVB, Inc.
KWTX Broadcasting Company
Leake TV, Inc.
McGraw-Hill Broadcasting Company
McKinnon Enterprises
Meredith Corporation
Metromedia, Inc.
Meyer Broadcasting Company
Mid-American Television Company
Mid-Continental Telecasting, Inc.
Mobile Video Tapes, Inc.
Monterey Salinas Television
Mt. Mansfield Television, Inc.
Multimedia, Inc.
National Association of Broadcasters (NAB)
NBC Television Affiliate Association
Nebraska Broadcasters Association
NEP Communications, et al
New Mexico Broadcasting Company
Noe Enterprises, Inc.
North American Communications Corporation
Northern West Virginia TV Broadcasting Company
NWG Broadcasting Company
Ohio Educational Television Network Commission
Paducah Newspapers, Inc.
Pikes Peak Broadcasting Company
Poole Broadcasting Company, et al
Radio Medford, Inc.
Rocky Mountain Broadcasters Association
Rollins Telecasting, Inc.
Rust Craft Broadcasting Company
Taft Broadcasting Company
Taylor Broadcasting Company
Television Muscle Shoals, Inc.
Texoma Broadcasters, Inc.
T/R, Inc.
Tri-State Broadcasting Company
Scripps-Howard Broadcasting Company
Southern Minnesota Broadcasting Company
Southern Television Corporation
Southwestern Louisiana Communications, Inc.
Southwest Kansas Television Company, Inc.
Springfield Television, Inc.
Springfield Television Broadcasting Corporation
Stainless, Inc.
Storer Broadcasting Company, et al.
Sun Papers Television
Virginia Broadcasting Corporation
Washoe Empire
WDAY, Inc., et al.
WDHO-TV, Inc.
WENY, Inc.
WENY, Inc., et al.
Westinghouse Broadcasting Company, Inc.
WGAL Television, Inc.
WHO Broadcasting Company
WIIC-TV, Inc.
Withers Broadcasting Company of West Virginia
WLAC-TV, Inc.
WLEX-TV, Inc.
WOC Broadcasting Company
WTHI Stations
WTVY, Inc.
WYNECO Communications, Inc.
XYZ Television, Inc.

CABLE COMMENTS

Allegany Video
Arizona Cable Television Association
Arizona Cable TV, Inc.
Clay Blanco, Valley Cablecasting Company
Sam L. Bradford
Buckeye Cablevision, Inc., et al.
Cablecom-General, Inc.
C-A Cablevision
B. G. Cadle
California Community Television Association
Cartersville Cable TV, Inc.
CATV of Penna., Inc.
79 CATV Companies (joint comments)
Carthage Cablevision, Inc.
Cass Cable TV, Inc.
Chillicothe Cable TV
Coldwater Cablevision, Inc.
Columbus TV Cable Corporation
Communications Properties, Inc., et al.
Community Antenna Company, Inc.
Community TV-System, Inc.
Crosby Cable, Inc.
Lee Droeger
Eastern Connecticut Cable Television, Inc.
Flint Cable TV, Inc.
Gainsville Cablevision
Gerity Broadcasting Company
Griffin Coaxial Company
Gulf Coast Teleception, Inc.
Hardin Cable TV, Inc.
Heritage Communications, Inc.
Hurley Cable TV
Kalispell Cable TV
Kingdom Television, Inc.
Lake Charlevoix Cable TV, et al
Manistee TV Cable, Inc.
James W. Meador
Meadville Master Antenna, Inc.
Metro Cable Company
Mississippi Cable TV Association
Mohave Cable Company
National Cable Television Association (NCTA)
Pennsylvania Cable Television Association
Quaker CATV, Inc.
Sammons Communications, Inc.
See TV Company
David W. Spangler
Staunton Video Corporation
Systems TV, Inc.
Tele-Communications, Inc.
TelePrompTer Corporation
Thomas Cablevision
Total Cable TV, Inc.
Tower Communications, Inc.
Town of Culpeper, Virginia and Suburban Cablevision, Inc.
Two M Cablevision, Inc.
University City Television Cable Company, Inc.
Upper Valley Telecable Company, Inc.
Viacom International, Inc.
Board of Trustees for the Vincennes University
Warner Cable of Claremont
Warner Cable of Danville
Water, Light & Gas Commission of Monroe, Georgia
Welch Antenna Company
Western Communications, Inc.

NAME OF REQUESTING STATION:
(Include name of licensee, community of license, call letters, channel designation, and affiliation)

SAMPLE NETWORK EXCLUSIVITY REQUEST FORM
(month and year)
PERIOD OF PROTECTION

MAILING DATE:

APPENDIX C

DAY	DATE	TIME PROGRAM BEGINS	TIME PROGRAM ENDS	PROTECTED PROGRAM TITLE (e.g., name of sporting event and teams; or name of movie)	NETWORK	PROGRAMMING TO BE DELETED (Indicate by a "yes" or a "no") (In these spaces indicate the call letters, channel designations, and affiliations of the stations whose programming is to be deleted.)		

APPENDIX C
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NAME OF REQUESTING STATION:
Pine Box Broadcasting, Inc.
Pine Box, Texas
KABW, Channel 38
Affiliation: ABC network

SAMPLE NETWORK EXCLUSIVITY REQUEST FORM
March 1975
PERIOD OF PROTECTION

MAILING DATE:
February 19, 1975

APPENDIX C
47 CFR 76.151

Example

DAY	DATE	TIME PROGRAM BEGINS	TIME PROGRAM ENDS	PROTECTED PROGRAM TITLE (e.g., name of sporting event and teams; or name of movie)	NETWORK	PROGRAMMING TO BE DELETED (Indicate by a "yes" or a "no") KABB-TV Channel 27 (ABC)	KABE Channel 8 (ABC)	KABB-TV Channel 63 (ABC/NBC)
Friday	21	8:00 p.m.	9:00 p.m.	Kolchak: The Night Stalker	ABC	Yes	Yes	No
		9:00 p.m.	9:30 p.m.	Hot 1 Baltimore	ABC	No	Yes	Yes
		9:30 p.m.	10:00 p.m.	Odd Couple	ABC	Yes	Yes	Yes
		10:00 p.m.	11:00 p.m.	ABC Closeup: The-A Question of Power	ABC	Yes	Yes	No
		11:30 p.m.	1:00 a.m.	Wide World Mystery "Rock-a-Bie, Baby"	ABC	No	Yes	No

Example

APPENDIX C
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APPENDIX C

ILLUSTRATION OF SPECIFIED ZONES

The purpose of this Appendix is to illustrate the general application of the new non-duplication rules. An exhaustive discussion of the new rules is not intended. The main text of this proceeding should be referred to for specific details of the new non-duplication rules illustrated and for such situations not here discussed.

Figure 1 represents a hypothetical television broadcast market situation. It has been designed to illustrate various non-duplication circumstances and should not be considered as generally representative of an actual market situation.

Four television markets are illustrated, identified by the large letters A, B, C, and D. Markets A and D represent two smaller markets (*i.e.*, below 100), and markets *C* and *B* are underscored and represent major markets (*i.e.*, top 100). Stations located in all four markets receive a 35 mile (radius) specified zone of protection (see paragraph 57). This zone will be referred to as the Primary Zone of the respective market. In addition, smaller markets (A and D) receive an added 20 mile (radius) area beyond the Primary Zone of protection. This added zone will be referred to as the Secondary Zone of the respective market.

The application of the non-duplication rules to various hypothetical cable system locations can be determined by noting relative priorities of the various Primary and Secondary Zones encompassing the particular systems, as discussed below.

Cable System 1. Is located within the Primary Zone of market D and, since there are no other equal or higher priority zones that encompass the cable system, it must provide non-duplication protection to all network affiliated stations in market D against all other similarly affiliated signals carried by the cable system.

Cable System 2. Is located within the Secondary Zone of market D and, since there are no other equal or higher priority zones that encompass the cable system, it must provide non-duplication protection to all network affiliates in market D from all other similarly affiliated signals carried by the cable system.

Cable System 3. Is located within the overlapping Secondary Zones of both markets A and D. Since the cable system is within overlapping zones of equal priority, it is not required to protect affiliated stations in market A or D against each other. Affiliates in both markets A and D, however, may take advantage of their individual secondary zones by requesting non-duplication protection from cable system 3 with respect to similar affiliates from any other market (*e.g.*, *C* and *B*).

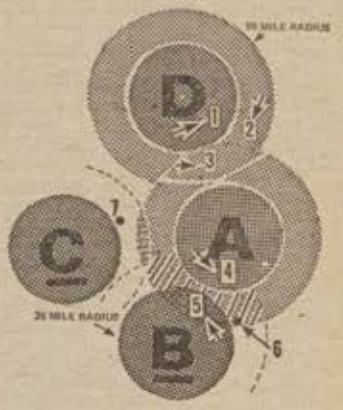
Cable System 4. Is located within the Primary Zone of market A and, since there are no equal or higher priority zones that encompass the system, it must provide non-duplication protection to all network affiliated stations in television market A against all other similarly affiliated signals from Primary Zone of market *B* and the Secondary other markets carried by the cable system.

Cable System 5. Is located within the Zone of market A. Since the Primary Zone is of higher priority, the cable system must provide non-duplication protection to all network affiliated stations in market *B* against all other similarly affiliated signals from other markets.

Cable System 6. Is located within the Secondary Zone of market A and outside the Primary Zone of market *B*. If the usual system of priorities would govern, the cable system would be required to provide non-duplication protection to affiliated stations in market A against similarly affiliated signals from all other markets, including market *B*. However, since this might result in the blacking out of a closer signal (from market *B*) to protect a more distant signal (from market A), § 76.92(*f*) applies and a 55-mile area of protection must be drawn around the Primary Zone of major market *B* wherever it may overlap a smaller market Secondary Zone. Cable systems located within this major-minor market overlap area (illustrated here by the striped portion) need not provide non-duplication protection to affiliated stations in either market A or *B* against each other. Nor would such a cable system have to provide nonduplication protection to affiliated stations in major market *B* against similar affiliates in any other market. The cable system must, however, recognize the Secondary Zone of protection of affiliated stations in smaller market A with respect to similar affiliates in all markets *other than* market *B*.

Cable System 7. Is located outside all Primary and Secondary Zones and, therefore, is not required to provide non-duplication protection to affiliated stations in any market. § 76.92(*f*), discussed above, is inapplicable because, although it is within 55 miles of major market *C*, there is no overlap from the Secondary Zone of smaller market A.

APPENDIX C
FIGURE 1



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