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Title 3—The President

Executive Order 11834 • October 7, 1975

Prescribing the Official Coat of Arms, Seal, and Flag of the Vice President of the United States

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

SECTION 1. The Coat of Arms of the Vice President of the United States shall be of the following design:

SHIELD: Paleways of thirteen pieces argent and gules, a chief azure; upon the breast of an American eagle displayed holding in his dexter talon an olive branch proper and in his sinister a bundle of thirteen arrows gray, and in his beak a gray scroll inscribed "E PLURIBUS UNUM" sable.

CREST: Behind and above the eagle a radiating glory or, on which appears an arc of thirteen cloud puffs gray, and a constellation of thirteen mullets gray.

SEC. 2. The Seal of the Vice President of the United States shall consist of the Coat of Arms encircled by the words "Vice President of the United States."

SEC. 3. The Color and Flag of the Vice President of the United States shall consist of a white rectangular background of sizes and proportions to conform to military custom, on which shall appear the Coat of Arms of the Vice President in proper colors within four blue stars. The proportions of the element of the Coat of Arms shall be in direct relation to the hoist, and the fly shall vary according to the customs of the military services.

SEC. 4. The Coat of Arms, Seal, and Color and Flag shall be as described herein and as set forth in the illustrations and specifications attached hereto and made a part of this Order. These designs shall be used to represent the Vice President of the United States exclusively.

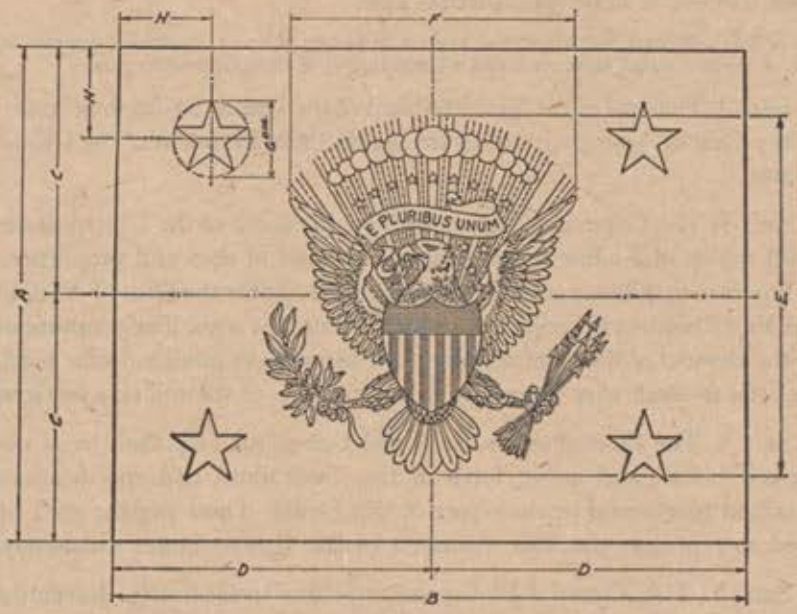
SEC. 5. This Order shall become effective immediately. Executive Order No. 10016 of November 10, 1948, is hereby revoked.

Gerald R. Ford

THE WHITE HOUSE,
October 7, 1975.

SPECIFICATIONS FOR VICE PRESIDENT'S FLAG

Flag base—white.
Stars, large—dark blue; stars, small—silver gray.
Shield:
  Chief—dark blue.
  Stripes—white and red.
Eagle:
  Wings, body, upper legs—shades of brown.
  Head, neck, tail—white, detailed silver gray.
  Beak, feet, lower legs—yellow.
  Talons—dark gray, white highlights.
Arrows—silver gray.
Olive branch:
  Leaves—shades of green; stem—brown.
  Olives—green.
Rays—yellow.
Clouds—silver gray.
Scroll—silver gray.
Letters—black.
All dimensions are exclusive of heading and hems.
Device to appear on both sides of flag but will appear reversed on reverse side of flag, except that the motto shall read from left to right on both sides.



RELATIVE PROPORTIONS OF DESIGN TO HOIST OF FLAG								
DIMENSIONS OF DESIGN	A(HOIST)	B	C	D	E	F	G (DIA)	H
RELATIVE DIMENSIONS	L		.5		.72596	.57692	.15865	.1875

[FR Doc.75-27291 Filed 10-7-75;11:34 am]

rules and regulations

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 24—BOARD OF CONTRACT APPEALS, DEPARTMENT OF AGRICULTURE

Rules of Procedure

The Rules of Procedure of the Board of Contract Appeals currently in effect were prescribed in 7 CFR 24.21 (39 FR 30914, 32004) and became effective on September 25, 1974. Under 7 CFR 24.9 of the Secretary's regulations, the Chairman of the Board may prescribe amendments of such Rules consistent with the Secretary's regulations.

Experience under the current Rules indicates that certain amendments of a clarifying nature would be helpful to counsel and the parties. The various Boards of Contract Appeals in the Executive Branch have been cognizant of the desirability of moving toward more uniform rules to simplify the burden facing contractors who may deal with more than one Government agency.

The current Rules of this Board were patterned after the Rules of Procedure of the Armed Services Board of Contract Appeals. The Rules of the GSA Board (40 FR 3291; January 21, 1975), the proposed Uniform Rules for Government Boards of Contract Appeals recommended on May 15, 1975, by the National Conference of Boards of Contract Appeals Members, the Recommendation and Report of the Council of the Section of Public Contract Law of the American Bar Association circulated in July 1975, as well as other Board procedures have all been given careful consideration. The revisions adopted for the AGBCA Rules of Procedure move toward greater uniformity with the Rules of other Boards.

The revised Rules of Procedure of the Agriculture Board of Contract Appeals are set forth in full and shall take effect on November 10, 1975.

Since these amendments involve internal management and technical clarifications of procedural rules, it is hereby found and determined that compliance with the notice of proposed rulemaking and public procedures requirements of 5 U.S.C. 553 is unnecessary and contrary to the public interest.

Subpart B—Rules of Procedure of Part 24, Subtitle A, Title 7 of the Code of Federal Regulations is revised to read as follows:

Subpart B—Rules of Procedure

Sec.

24.21 Rules of Procedure of Agriculture Board of Contract Appeals—AGBCA

Rule
1 Appeals, How taken.
2 Notice of Appeal, Contents of.
3 Forwarding of Appeals.
4 Complaint.
5 Appeal File.
6 Answer.
7 Additional pleadings and motions.
8 Hearing election.
9 Accelerated procedure.
10 Prehearing or presubmission procedures.
11 Submission without a hearing.
12 Discovery procedures.
13 Sanctions.
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Hearings
15 Hearings, Notice of.
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Posthearing or postsubmission procedures
19 Posthearing briefs.
20 Closing the record.
21 Copies of papers.
22 Withdrawal of exhibits.
23 Decisions.
24 Reconsideration, Motion for.
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25 Dismissals.
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26 Representation of parties.
27 Ex parte communications.

AUTHORITY: (5 USC 301) (40 USC 486(c)) sec. 4, 62 Stat 1070, as amended (15 USC 714b); 30 Stat. 35, as amended (16 USC 551); 50 Stat. 525, as amended (7 USC 1011(f)); secs. 9, 10, 62 Stat. 1072, 1073 (15 USC 714g, 714h).

§ 24.21 Rules of Procedure of Agriculture Board of Contract Appeals—AGBCA.

(a) *Preface to Rules.* (1) *Jurisdiction.* The jurisdiction, organization and functions of the Agriculture Board of Contract Appeals—AGBCA—are prescribed by the Secretary of Agriculture in Subpart A of this Part 24 (7 CFR §§ 24.1 *et seq.*; 39 FR 30912, 32004, 40 FR 32109). The Board has authority to determine appeals falling within the scope of its jurisdiction as fully and finally as might the Secretary of Agriculture.

(2) *Organization and location of the Board.* The Board is located in Washington, D.C. and its mailing address is Board of Contract Appeals, Room 2912 South Building, United States Department of Agriculture, Washington, D.C. 20250. Its telephone number is AC 202 447–7023.

(i) The Board consists of a Chairman and three other full-time members who are qualified attorneys admitted to the practice of law together with as many as three part-time members who are employees of the Department. Full-time attorney members are designated as Administrative Judges and the Chairman is designated as Chief Administrative Judge.

(ii) The Chairman acts as the Presiding Officer or designates a Board Member as the Presiding Officer for each appeal. The Presiding Officer is primarily responsible for the handling of the case and presides at the hearing. Except in appeals handled under the accelerated procedures where the Presiding Officer is the sole deciding Member (7 CFR 24.3), decisions of the Board are rendered by a panel of three Members designated by the Chairman and the decision of the majority of the panel constitutes the decision of the Board.

(3) *Decisions on questions of law.* When an appeal is taken pursuant to a Disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may, in its discretion, hear, consider and decide all questions of law necessary for the complete adjudication of the issues. In the consideration of an appeal, if it appears that a claim is involved which is not cognizable under the terms of the contract, the Board may make Findings of Fact with respect to such a claim without expressing an opinion on the question of entitlement.

(4) *Board of Contract Appeals procedure.* Appeals referred to the Board are handled in accordance with these Rules of Procedure. Emphasis is placed upon the sound administration of these Rules in specific cases because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These Rules will be interpreted so as to assure a just and inexpensive determination of appeals without unnecessary delay. Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(5) *Time, computation and extensions.* All time limitations specified for various procedural actions are computed as maximums and are not to be fully exhausted if the action described can be accomplished in a lesser period. Except as otherwise provided by law, in computing any period of time prescribed by these rules or any order of the Board, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run to the end of the next business day. If mailing is required, the date of the postmark shall be treated as the date action was taken. Requests for extensions of time by either party shall be in writing and state good cause for the requested extension. The Board may grant such extensions on good cause shown except that the Board shall not extend the time prescribed under 7 CFR § 24.5 for taking an appeal.

RULES OF PROCEDURE

DOCKETING, PLEADINGS, PRELIMINARY PROCEDURES

Rule 1. Appeals, How taken. Notice of an appeal shall be in writing and the original, together with two copies, shall be mailed or otherwise furnished to the contracting officer from whose decision the appeal is taken, addressed to the Secretary of Agriculture, within the time specified in the contract or allowed by applicable provision of regulation or law. (See 7 CFR § 24.5)

Rule 2. Notice of Appeal, Contents of. A notice of appeal shall clearly identify the decision from which the appeal is taken, the date of the decision, the contract number, the agency or field office of the Department cognizant of the dispute and shall indicate that an appeal is thereby intended. The notice of appeal need not follow any prescribed form. It may be in the form of a letter. It should be signed personally by the appellant (the contractor making the appeal), or by an officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in Rule 4 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint if it otherwise fulfills the requirements of a complaint.

Rule 3. Forwarding of Appeals. When a notice of appeal in any form has been received by the contracting officer, the date of mailing (or date of receipt, if otherwise conveyed) shall be endorsed thereon by the contracting officer. The contracting officer shall forward the original and one copy of the notice of appeal to the Board within 10 days through agency channels. The agency office receiving such notice of appeal shall forward the original and one copy to the Board of Contract Appeals, United States Department of Agriculture, Washington, D.C. 20250, not later than 15 days from the date of receipt from its contracting officer. Following receipt by the Board of such notice of appeal, the Board will notify the appellant (contractor) and the contracting officer of the docketing of the appeal and will furnish a copy of these rules to the appellant.

Rule 4. Complaint. A complaint shall be filed by appellant with the Board not later than the date prescribed by letter from the Board except where the Board treats the notice of appeal as the complaint. The complaint shall contain simple, concise and direct statements of each claim and the dollar amount claimed, alleging the basis for each claim with appropriate reference to contract provisions. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. If a complaint is not timely filed, the Board may treat the notice of appeal as the complaint if it deems the issues to be sufficiently defined. The Board will notify the Government attorney of any such determination.

Rule 5. Appeal File.—(a) *Duties of contracting officer.* The contracting officer shall assemble and file with the Board within the time prescribed by letter from the Board, three copies of all documents pertinent to the appeal as an appeal file including as applicable but not necessarily limited to:

(1) the decision and findings of fact from which appeal is taken;

(2) the contract including pertinent specifications, amendments, plans and drawings;

(3) all correspondence between the parties pertinent to the appeal, including the letter or letters of claim in response to which decision was issued;

(4) transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board; and

(5) any additional information considered pertinent.

(b) *Organization of appeal file.* Documents in the appeal file may be originals or legible facsimile or authenticated copies thereof, and shall be arranged in chronological order, where practicable, numbered sequentially, tabed, and indexed to identify the contents of the file.

(c) *Board action upon receipt of appeal file.* The Board upon receipt of the appeal file from the contracting officer will send a copy thereof to appellant and to the Government attorney. The appellant and the Government attorney may supplement the appeal file by filing with the Board three copies of any additional documents not contained in the appeal file assembled by the contracting officer which appellant or the Government attorney believes are also pertinent to the appeal. Such filings shall be made with the Board within the time prescribed by the Board. The Board upon receipt of any such additional documents will send a copy thereof to the other party.

(d) *Status of documents in appeal file.* Documents contained in the appeal file are considered, without further action by the parties, as part of the record upon which the Board will render its decision, unless a party objects to the consideration of a particular document in advance of hearing or of closing the record in the event there is no hearing on the appeal. If objection to a document is made, the Board will rule upon its admissibility into the record as evidence.

(e) *Lengthy documents.* The Board may waive the requirement of including in the copy of the appeal file to be furnished to the other party copies of bulky, lengthy, or out-of-size documents when a party shows to the satisfaction of the Board that providing such documents would impose an undue burden, provided that such documents are available for inspection at the office of the party filing only one copy thereof. Such documents will also be available for inspection at the office of the Board.

Rule 6. Answer. The Government attorney will be requested by the Board to file an answer on behalf of the contracting officer after the complaint has been filed. The answer shall be filed with the Board within the time prescribed by letter from the Board and shall be in an original and two copies setting forth simple, concise, and direct statements of defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counterclaims as appropriate. The Board will send a copy of the answer to appellant. If a counter-claim is filed, an opportunity will be afforded to appellant to file a response. If an answer is not timely filed, the Board may, in its discretion, enter a general denial and so notify the appellant.

Rule 7. Additional pleadings and motions. The presiding officer may permit or require such additional pleadings or amendments thereto and motions to be filed as may be desirable in the interests of defining the issues and affording the parties full opportunity to prepare their cases. When issues within the proper scope of the appeal, but not raised by the pleadings or the appeal file are tried by express or implied consent of the parties, or by permission of the presiding officer, such issues shall be treated in all respects as if raised therein. In such instances, motions to amend the pleadings to conform to the proof may be entered but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or appeal file, it may be admitted within the proper scope of the appeal: *Provided, however,* That the objecting party may be granted a continuance if necessary to enable such party to meet such evidence.

Rule 8. Hearing election. A hearing before the Board shall be a matter of right which shall be afforded to appellant. The Government attorney may request a hearing in any case. If the parties waive a hearing the case shall be submitted on the record except where the presiding officer requires a hearing. The Board will ascertain from the parties whether a hearing is requested and ordinarily this will be done after the appeal file and pleadings have been received by the Board.

Rule 9. Accelerated procedure.—(a) *Election.* Either party may notify the Board of its election to have the appeal handled under this Rule 9. If both parties agree to handling under accelerated procedure, the presiding officer shall determine whether the appeal falls within the dollar limitation prescribed in paragraph (b) of this Rule 9 and whether the case otherwise is appropriate, taking into consideration the nature of the dispute, for handling under accelerated procedure. The determination of the presiding officer to handle or not handle the appeal under accelerated procedure shall be final.

(b) *Dollar amount limitation.* In order to be eligible for handling under accelerated procedure, the appeal shall involve $25,000 or less consisting of the claim of appellant together with the amount involved in any counter-claim filed by the Government attorney. If no dollar amount of claim or counter-claim is involved, the presiding officer shall determine whether the appeal can be properly disposed of under this Rule 9.

(c) *Elimination of procedures.* In cases proceeding under this Rule 9, parties are encouraged to the extent possible consistent with adequate presentation of their factual and legal positions, to waive pleadings, discovery and briefs.

(d) *Presiding officer as decision maker.* The presiding officer in any appeal handled under accelerated procedure shall issue a short written decision as soon as practicable after closing of the record and such decision shall be the final decision of the Board.

Rule 10. Prehearing or presubmission procedures.—(a) *Prehearing orders.* The presiding officer may issue an order in cases where a hearing will be held prescribing as to one or more of the following that the parties shall:

(1) exchange a list of witnesses giving titles and a brief description of the subject matter of the testimony;

(2) exchange proposed exhibits and prepare an additional set thereof for the presiding officer; and

(3) exchange a list of expert witnesses with a summary of their qualifications and testimony.

(b) *Prehearing orders in complex cases.* The presiding officer may issue a more comprehensive order in cases where a hearing will be held and it appears that the issues are confused, complex, that the hearing will be unduly long, or where quantum is involved. Such order, in addition to covering one or more of the items under (a) of this rule, may prescribe as to one or more of the following that the parties shall:

(1) submit to the presiding officer a stipulation of all facts not in dispute;

(2) attempt preparation of an agreed statement of factual and legal issues and, failing therein, submit separate statements; and

(3) submit to the other party, where the issue of quantum will be heard, a statement of the monetary claim in detail with ac-

counting schedules and explanations and afford the other party the right to an audit with the audit report to be available to both parties.

(c) *Prehearing or presubmission briefs and oral argument.* The presiding officer may require or allow the filing of prehearing or presubmission briefs in such manner as prescribed and may also require or allow oral argument in such manner as prescribed prior to hearing or submission on the record.

(d) *Prehearing or presubmission conference.* The presiding officer may require a prehearing or presubmission conference to consider:

(1) the simplification or clarification of the issues;

(2) the possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record or similar agreements which will avoid unnecessary proof;

(3) the limitation of the number of expert witnesses, or avoidance of similar cumulative evidence if the case is to be heard;

(4) the possibility of agreement disposing of all or any of the issues in dispute;

(5) such other matters as may aid in the disposition of the appeal.

The results of the conference shall be reduced to writing by the presiding officer and this writing shall constitute part of the record.

Rule 11. Submission without a hearing. Either party may elect to waive a hearing and if the other party as well as the Board do not require a hearing, the case shall be submitted upon the record before the Board. Submission of a case without hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. Affidavits, depositions, admissions, answers to interrogatories and stipulations may be employed to supplement other documentary evidence in the Board record. The Board may permit such submission to be supplemented by oral arguments and briefs.

Rule 12. Discovery procedures.—(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any deposition or other discovery procedure, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, and such order may include limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents.

(b) *When depositions permitted.* After an appeal has been docketed and complaint filed, the parties may mutually agree to, or the presiding officer may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purpose of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence.

(c) *Orders on depositions.* The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the presiding officer.

(d) *Expenses.* Each party shall bear its own expenses associated with the taking of any deposition.

(e) *Interrogatories to parties.* After an appeal has been docketed, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 30 days. Upon timely objection by the party, the presiding officer will determine the extent to which the interrogatories will be permitted.

(f) *Admission of facts.* After an appeal has been docketed, a party may serve on the other party a request for the admission of specified facts. The party served shall answer each requested item or file objections thereto within 30 days after service. The presiding officer will rule on any such objections. The factual propositions set out in the request shall be deemed admitted upon the failure of a party to respond or object to the request for admission.

(g) *Production, inspection and copying of documents.* After an appeal has been docketed, a party may arrange with the other party to produce and permit the inspection and copying or photographing of any designated documents or objects, not privileged, specifically identified, and their relevance and materiality to the cause or causes in issue explained, which are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot agree thereon, the presiding officer shall specify just terms and conditions in making the inspection and making copies and photographs. Expenses of making copies and photographs shall be borne by the party seeking to make or cause to be made copies and photographs.

Rule 13. Sanctions. If any party fails or refuses to obey an order issued by the presiding officer, the presiding officer may make such order in regard to the failure deemed necessary to the just and expeditious conduct of the appeal.

Rule 14. Subpoena power. The Chairman has authority by delegation from the Secretary to request the appropriate United States Attorney to apply to the appropriate United States District Court for the issuance of subpoenas pursuant to 5 USC 304.

HEARINGS

Rule 15. Hearings, Notice of. The presiding officer shall give notice of the time and place set for hearing which shall be scheduled as may best serve the interests of the parties and the Board. Such notice shall be sent to the parties in writing not less than 30 days in advance of the date for such hearing unless the parties waive notice.

Rule 16. Unexcused absence of a party. The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in Rule 11.

Rule 17. Hearings, open to public, verbatim transcript. Hearings shall be open to the public. Testimony shall be reported verbatim. Transcripts of the proceedings shall be made available by the Board to the Government attorney. Appellant may order transcripts of the proceedings from the contract reporter at the hearing at actual cost of duplication (Pub. L. 92-463, October 6, 1972, 86 Stat. 770, 5 USC App. I).

Rule 18. Hearings, Conduct of.—(a) *General.* Hearings shall be as informal as may be reasonable and appropriate under the circumstances. The parties may offer such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject, however, to the sound discretion of the presiding officer in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding officer. The presiding officer shall receive only evidence which is germane to the issues involved and shall exclude, insofar as practicable, evidence which is immaterial, irrelevant or unduly repetitious or which is not of the sort upon which responsible persons are accustomed to rely. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board members considering the case, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The presiding officer may in any case require evidence in addition to that offered by the parties.

(b) *Examination of witnesses.* Witnesses will be examined under oath or affirmation subject to cross-examination and questions from the presiding officer and Board members. If the testimony of a witness is not given under oath, the presiding officer may warn the witness that statements made may be subject to provisions of law imposing penalties for knowingly making false representations (18 USC 287, 1001).

(c) *Burden of proof and order of proceeding.* The burden of proof rests on the appellant asserting the claim or error in the decision except that the burden of proof in case of counter-claims rests on the party asserting them. Unless otherwise permitted by the presiding officer, the appellant shall proceed first at the hearing followed by the presentation of the Government attorney and any rebuttal case permitted by the presiding officer.

(d) *Objections.* If a party objects to the admission or rejection of any evidence or to a limitation of the scope of any examination or cross-examination, such party shall state briefly the grounds of such objection and the presiding officer shall rule thereon or reserve ruling.

(e) *Records and documents.* Upon proof of authenticity, papers, books, records or documents shall be admissible in evidence without the production of the person who made or prepared the same except that the person who prepared documents specially for use at the hearing should be available to explain such documents.

(f) *Exhibits.* All documents offered in evidence at a hearing shall be marked for identification by number or letter as prescribed by the presiding officer. Except where the presiding officer finds that the furnishing of copies is impracticable, a copy of each proposed exhibit shall be made available to the other party when offer is made or prior to the hearing, if possible.

(g) *Offer of proof.* Whenever evidence is excluded from the record the offering party may make an offer of proof briefly stating the evidence proposed to be received into evidence.

(h) *Official notice.* Official notice will be taken of such matters as are judicially noticed by the courts of the United States and of any other matter of technical, scientific, or commercial fact of established character: *Provided*, That the parties shall be given adequate notice of matters so noticed and shall be given adequate opportunity to show that such facts are erroneously noticed.

(i) *Depositions.* No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or im-

peach the testimony of the witness given at the hearing. In cases submitted on the record, the presiding officer may receive depositions as evidence in supplementation of that record.

POSTHEARING OR POSTSUBMISSION PROCEDURES

Rule 19. Posthearing briefs. The presiding officer shall prescribe the manner of filing any posthearing briefs.

Rule 20. Closing the record.—(a) *Contents.* The record consists of the appeal file described in Rule 5 and, to the extent the following have been filed, the pleadings, prehearing conference memoranda or orders, prehearing briefs, depositions or interrogatories received in evidence, admissions, stipulations, transcripts of conferences and hearings, hearing exhibits, posthearing briefs and documents which the presiding officer has specifically designated be made part of the record. The record will at all reasonable times be available for inspection by the parties at the office of the Board.

(b) *Closing or settling of record.* Except as the presiding officer may otherwise order, no proof shall be received in evidence after completion of a hearing or in cases submitted on the record, after the parties have been notified that the case is ready for decision. The weight to be attached to any evidence of record will rest within the sound discretion of the Board members considering the case. The presiding officer may in any case require either party, with appropriate notice to the other party, to submit additional evidence on any matter relevant to the appeal.

Rule 21. Copies of papers. When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during or after the hearing.

Rule 22. Withdrawal of exhibits. After a decision has become final the Board may, upon request and after notice to the other party, in its discretion, permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

Rule 23. Decisions. The Board shall issue written decisions containing findings of fact and conclusions and shall send copies simultaneously to the parties by certified mail or, if delivered directly, with a notation of the date of delivery. Decisions of the Board will be made solely upon the record as described in Rule 20.

Rule 24. Reconsideration, Motion for. A motion for reconsideration of a Board decision, if filed by either party, shall set forth specifically the ground or grounds relied upon to sustain the motion and shall be filed within 30 days from the date of receipt of a copy of the Board decision by the party filing the motion. The Board, in its discretion, may deny the motion or permit such additional proceedings as deemed necessary.

DISMISSALS

Rule 25. Dismissals.—(a) *Lack of jurisdiction.* A motion to dismiss for lack of jurisdiction may be filed by a party at any time. The Board may also raise the question of jurisdiction at any time on its own motion. The presiding officer shall prescribe any necessary proceedings including but not limited to written arguments, briefs or hearing on the issue of jurisdiction. The presiding officer shall issue a Ruling on the issue of jurisdiction unless the Chairman requires a full three member panel to consider the issue of jurisdiction in which event the designated panel shall issue the Ruling on the issue of jurisdiction.

(b) *Failure to prosecute.* Whenever a record discloses the failure of either party to file documents required by these rules, respond to notices or correspondence from the presiding officer, comply with orders of the presiding officer, or otherwise indicates an intention not to continue the prosecution or defense of an appeal, the presiding officer may issue an order requiring the offending party to show cause why the appeal should not be either dismissed or granted, as appropriate. If the offending party shall fail to show such cause, the presiding officer may issue an Order of Dismissal for failure to prosecute or take such other action deemed reasonable and proper under the circumstances.

(c) *Without prejudice.* In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the Board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any such case where the suspension has continued, or it appears that it will continue, for an inordinate length of time, the presiding officer, exercising sound discretion, may dismiss such appeals without prejudice to restoration to the docket when the cause of suspension has been removed. Unless either party or the Board acts within 3 years to reinstate any appeal dismissed without prejudice, the dismissal shall be deemed with prejudice.

(d) *Settlement or withdrawal.* The parties may settle the issues at any state of the proceedings before issuance of a decision of the Board. The appellant may withdraw the appeal at any time. The presiding officer in the event of settlement or withdrawal shall issue an Order of Dismissal.

MISCELLANEOUS

Rule 26. Representation of parties. Appellant may appear before the Board in person or be represented by an authorized representative or attorney subject to the limitations prescribed in 7 CFR 1.26 regarding representation before the Department. The Government shall be represented by the Government attorney.

Rule 27. Exparte Communications. No member of the Board or of the Board's staff shall entertain, nor shall any person directly or indirectly involved in an appeal submit to the Board or the Board's staff, off the record any evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in an appeal. This provision does not apply to consultation among Board members nor to ex parte communication concerning the Board's administrative functions or procedures.

Effective date: The provisions of this Subpart B of Part 24 shall take effect on November 10, 1975.

Signed at Washington, D.C., on September 5, 1975.

PAUL H. RAPP,
Chairman,
Board of Contract Appeals.

[FR Doc.75-27183 Filed 10-8-75;8:45 am]

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

[Valencia Orange Reg. 519]

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

Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Oct. 10–16, 1975. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.819 Valencia Orange Regulation 519.

(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 recommendations 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 this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges failed to improve during the past week. Prices f.o.b. averaged $3.65 per carton on a reported sales volume of 682,000 cartons last week, compared with an average f.o.b. price of $3.93 per carton and sales of 694,000 cartons a week earlier. Track and rolling supplies at 405 cars were down 34 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed 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 regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon

which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 7, 1975.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period October 10, 1975, through October 16, 1975, are hereby fixed as follows:

(i) District 1: 147,000 cartons;

(ii) District 2: 328,000 cartons;

(iii) District 3: Unlimited movement."

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 60–674)

Dated: October 8, 1975.

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

[FR Doc.75-27500 Filed 10-8-75;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—GENERAL REGULATIONS

[FmHA Instruction 440.6]

PART 1808—TRUTH-IN-LENDING—DISCLOSURE STATEMENTS AND NOTICE OF RIGHT TO RESCIND—REAL ESTATE SETTLEMENT PROCEDURES ACT

Implementation

Sections 1808.1(b), 1808.2 (b) and (e) of Part 1808 of Title 7, Code of Federal Regulations, Chapter XVIII (40 FR 26258; 40 FR 33197) are amended. Section 1808.1(b) is amended to further implement the requirements of the Truth-In-Lending Act and Regulation Z of the Federal Reserve System. It exempts the disclosure requirements of Regulation Z and the Truth-In-Lending Act in credit transactions primarily for agricultural purposes, including real property transactions where the amount financed exceeds $25,000; § 1808.2(b) is amended to remove the requirements similar to those of the Real Estate Settlement Procedures Act (RESPA) in transactions involving the construction of 1–4 family residential units; § 1808.2 (e) is amended to require the designated attorney or escrow agent to certify to Farmers Home Administration (FmHA) that a copy of the resettlement statement was delivered to the buyer and seller as appropriate.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. However, the change to § 1808.1(b) is not published for proposed rulemaking because it further implements new provisions of the Truth-In-Lending Act and Regulation Z of the Federal Reserve Board which were effective August 8, 1975 and proposed rulemaking is unnecessary. The changes to § 1808.2 (b) and (e) are made pursuant to comments received in response to the publication of these regulations as amended on August 7, 1975 at 40 FR 33197 and therefore proposed rulemaking is unnecessary.

As amended, § 1808.1(b) and 1808.2 (b) and (e) read as follows:

§ 1801.1 Truth in lending.

* * * * *

(b) *Scope.* This paragraph applies to all natural persons (individuals) who apply for loans, assumptions or credit sales, except applicants which are corporations, associations, cooperatives, public bodies, partnerships or other organizations, Rural Rental Housing (RRH), loans; or credit transactions primarily for agricultural purposes, including real property transactions in which the amount financed exceeds $25,000.

* * * * *

§ 1808.2 Real Estate Settlement Procedures Act.

* * * * *

(b) *Scope.* This paragraph applies to all loans, assumptions, and credit sales involving the sale of 1–4 family residential units (502 Rural Housing, 1–4 family RRH, 1–4 family Labor Housing, loans to purchase farm tracts on which a 1–4 family residence is located) secured by a lien on the real estate, regardless of the nature of the borrower. Except that this paragraph does not apply to any loan financing the purchase or transfer of a property of 100 or more acres; or any loan financing the purchase or transfer of a property of less than 100 acres but more than 10 acres where the value of the 1–4 family residence, including related residential facilities (e.g. garage), and a reasonable parcel of land on which the residence is located, is less than the value of the remaining security property (i.e. land and existing buildings and facilities, and buildings and facilities to be constructed with proceeds of the loan).

* * * * *

(e) *Settlement statements.* For all loans, assumptions, or credit sales described in paragraph (b) of this section closed after June 20, 1975, Form FmHA 440–59 (HUD–1) will be completed as indicated in the Form by the designated attorney or escrow agent as a settlement statement, and a copy will be given to both the borrower and seller at loan closing. The designated attorney or escrow agent will certify to FmHA that a copy of Form FmHA 440–59 (HUD–1) was delivered to the buyer and seller as appropriate. If the loan is covered by § 1808.1(b) and paragraph (b) of this section, Form FmHA 440–58 will be completed as indicated in the Form and attached as a third page to Form FmHA 440–59 (HUD–1).

Effective date. This revision is effective on October 9, 1975.

(7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70; Pub. L. 93–357, 88 Stat. 392)

Dated: October 1, 1975.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.75-27150 Filed 10-8-75;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Motor Gasoline Supplier/Purchaser Relationships

On June 4, 1975, the Federal Energy Administration issued a notice of proposed rulemaking and public hearing (40 FR 24365, June 6, 1975), proposing to amend FEA regulations concerning supplier/purchaser relationships for branded wholesale purchaser-resellers of motor gasoline.

No requests to make oral presentations were received by FEA before 4:30 p.m., EDT, June 23, 1975. Consequently, the public hearing was cancelled (40 FR 27259, June 27, 1975).

Written comments were invited through June 26, 1975. FEA received 26 timely comments and eight late comments. All comments directly addressing the proposed amendment were considered. In light of those comments and other considerations, FEA has decided to adopt the proposed amendment with certain modifications.

In the notice of proposed rulemaking FEA sought specific comments with respect to which base period supplier could

be designated as a wholesale purchaser-reseller's sole base period supplier. The choice was between the December 1972 base period supplier or any one base period supplier. Of those persons addressing this issue in their comments, the great majority favored permitting the purchaser to choose its December 1972 supplier for the reason stated in the notice of proposed rulemaking; namely, the most recent supplier/purchaser relationship during the base period year reflects the most agreeable arrangement among the parties. The amendment, as adopted, reflects this approach.

Several persons suggested that the amendment make it clear that the purchaser's designation is a voluntary, one-time option. Also, it was recommended that a time limit be established for exercising the option. The amendment, as adopted, specifies that the designation must be made by no later than February 29, 1976, shall be effective for the duration of the Mandatory Petroleum Allocation Program and may be made only if the wholesale purchaser-reseller terminates its relationship with all of its other base period suppliers.

Several persons urged that the designation by the purchaser should not be effective without the consent of the designated supplier. An alternative suggestion was that FEA determine the appropriateness of a designation made by a purchaser if the designation is disputed by the chosen supplier. FEA believes that subpart D—Exceptions of Part 205, Administrative Procedures and Sanctions Regulations, affords an adequate remedy for those suppliers who believe designations made pursuant to the amendment will result in serious hardship or gross inequity.

Some persons suggested that the amendment be limited to retail sales outlets only. FEA believes that jobbers which are branded independent marketers have experienced the same hardships as retail sales outlet operators as a result of having to shift from one branded supplier to another during the calendar year. The reasons set forth in the notice of proposed rulemaking for providing relief to branded independent marketers are as valid for branded jobbers and other wholesale purchaser-resellers in the refinery-to-pump distribution chain as they are for retail sales outlets. Therefore, the amendment, as adopted, is not restricted to retail sales outlets but is applicable to all branded wholesale purchaser-resellers which fall within the class specified in § 211.105.

Some persons recommended that the amendment be expanded to give non-branded independent marketers of gasoline the same option offered to branded independent marketers. Based on the information available to FEA, the hardships imposed on branded independent marketers of motor gasoline have been rarely experienced, if at all, by other classes of marketers or purchasers of products other than motor gasoline. Therefore the amendment, as adopted, applies only to branded independent marketers of motor gasoline.

The proposed amendment did not make it clear that if a wholesale purchaser-reseller chooses to designate its December 1972 supplier as its sole base period supplier, the designated supplier will be the supplier for each of the periods corresponding to a base period in a calendar year. The amendment, as adopted, clarifies this point.

Two persons suggested that a designated supplier be permitted to purchase from the terminated supplier a volume of gasoline equal to the amount of gasoline the purchaser could have purchased from the terminated supplier. FEA believes this suggestion would be difficult to implement without major substantive changes in the regulations. The provisions of part 205 with respect to assignments, adjustments and exceptions should provide adequate means of relief in those few instances where designated suppliers need to obtain additional supplies of motor gasoline to meet their requirements.

Finally, it was pointed out that as proposed the amendment was not self-effectuating since the designated supplier was not required to begin deliveries at any particular time. The amendment, as adopted, provides that the designated supplier shall begin deliveries reflecting its increased supply obligation, if any, starting with the first period corresponding to a base period after receipt of the notice required from the wholesale purchaser-reseller by § 211.105(c).

The amendment adopted today has been reviewed in accordance with Executive Order 11821, issued November 27, 1974 and has been determined not to require evaluation of its inflationary impact.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 94-99; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Part 211, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., October 3, 1975.

ROBERT E. MONTGOMERY, Jr.
General Counsel.

Section 211.105 is revised to read as follows:

§ 211.105 Supplier/purchaser relationships.

(a) Unless otherwise specified in this section or in § 211.106, the provisions of §§ 211.9–211.13 of this part apply to this subpart.

(b) Notwithstanding the provisions of subpart A of this part, for periods corresponding to base periods commencing after October 3, 1975, any wholesale purchaser-reseller of motor gasoline which is a branded independent marketer, and which during the calendar year has two or more base period suppliers, may at its option terminate its supplier/purchaser relationship with one or more of its base period suppliers for periods during a calendar year which correspond to base periods and during which the purchaser is entitled to an allocation from those suppliers. A wholesale purchaser-reseller of motor gasoline which terminates a supplier/purchaser relationship pursuant to this paragraph may by no later than February 29, 1976, designate its supplier as of December 1972 as the base period supplier for all periods during a calendar year which correspond to base periods and during which the purchaser was entitled to an allocation from the terminated base period supplier(s). This designation may be made once and shall be for the duration of the Mandatory Petroleum Allocation Program unless otherwise ordered by FEA pursuant to part 205 of this chapter.

(c) A wholesale purchaser-reseller of motor gasoline which designates a base period supplier pursuant to paragraph (b) of this section shall provide written notice to the terminated base period supplier(s) and to the designated supplier at least twenty (20) days prior to the beginning of the first period corresponding to a base period affected by the termination. The notice shall include the names and addresses of the designated and terminated base period suppliers and of the wholesale purchaser-reseller; the location of any facility, including any retail sales outlet, concerned; and the portion of the wholesale purchaser-reseller's base period use which was formerly supplied by the terminated base period supplier(s) and which is to be supplied by the designated base period supplier. The designated base period supplier shall begin deliveries reflecting its increased supply obligation, if any, to the wholesale purchaser-reseller pursuant to paragraph (d) of this section starting with the first period corresponding to a base period after receiving the notice from the wholesale purchaser-reseller required by this paragraph (c).

(d) For each period corresponding to a base period, the portion of the wholesale purchaser-reseller's base period use supplied by a supplier designated as a base period supplier pursuant to paragraph (b) of this section shall be that portion of the wholesale purchaser-reseller's base period use supplied by the terminated supplier(s) plus any portion supplied by the designated supplier prior to the termination made pursuant to paragraph (b) of this section.

[FR Doc.75-27086 Filed 10-6-75;9:46 am]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Emergency Amendment Adopting Special Rule No. 5 for Refiners Buy/Sell Program

The crude oil allocation notice for the refiners buy/sell program (10 CFR 211.65) issued on August 26, 1975 (40 FR 39932; August 29, 1975), specified that the notice would become effective

for the allocation quarter commencing September 1, 1975, only if the Emergency Petroleum Allocation Act of 1973 ("EPAA") was extended beyond its then scheduled expiration date of August 31, 1975. On September 29, 1975, the President signed an extension of the EPAA through November 15, 1975, retroactive to September 1. Thus, as provided in the notice, the purchase opportunities and sale obligations for the allocation quarter commencing September 1, 1975, are now effective.

Special Rule No. 5 for Subpart C adopted hereby specifies the transaction and directed sale periods for the September 1, 1975 allocation quarter. These periods are normally calculated under § 211.65 (h) by reference to the publication date of the crude oil allocation notice for each allocation quarter; however, since the notice for the current quarter did not become effective until the extension of the EPAA was accomplished, FEA has determined that immediate specification of these periods for the current quarter is necessary to enable the buy/sell program to function effectively for this quarter.

Accordingly, the Special Rule adopted herein provides that, notwithstanding the provisions of § 211.65(h), a refiner-buyer that is unable to negotiate a contract to purchase crude oil within seven days of the issuance of the Special Rule may request after the expiration of such seven day period, in accordance with the procedures established under Subpart G of Part 205 of this chapter, that FEA direct one or more refiner-sellers to sell an acceptable type of crude oil to such refiner-buyer. Such a request must be made within 20 days of the issue date of the Special Rule. Upon such request, FEA may direct one or more refiner-sellers that have not sold their required allocation quarter quantity to sell crude oil to the refiner-buyer making the request. If that refiner-buyer declines to purchase the crude oil specified by FEA, the rights of the refiner-buyer to purchase that volume of crude oil during the current allocation quarter are forfeited, provided that the refiner-seller or refiner-sellers have fully complied with all of the provisions of § 211.65. A refiner-seller that has not negotiated sales with refiner-buyers of the required volume of crude oil within seven days of said issue date shall notify FEA, which may then direct that refiner-seller to sell its unsold volume to a refiner-buyer which has not obtained its total amount permitted under the crude oil allocation notice and as provided in the Special Rule.

Secondly, the Special Rule adopted herein provides for a prorating of purchase opportunities of refiner-buyers and sale obligations of refiner-sellers in the event that tht EPAA is not extended beyond November 15, 1975. In the event that the EPAA does expire on that date, each refiner?buyer's purchase opportunity will be 7 6/91 of the amount shown nity will be 7$\frac{6}{91}$ of the amount shown on the crude oil allocation notice, and each refiner-seller's obligation will be prorated as shown on the Appendix to the Special Rule. FEA suggests that refiner-buyers and refiners-sellers negotiate with each other based on the full volumes shown on the list, but that either the delivery or sale price of amounts representin gthe contingent portion of the full volumes be made dependent upon whether the EPAA is extended beyond November 15, 1975.

Section 7(i)(1)(B) of the Federal Energy Administration Act of 1974, Pub. L. 93-275 ("FEAA"), provides for waiver of the requirements of that section as to time of notice and opportunity to comment prior to promulgation of regulations where strict compliance with such requirements is found to cause serious harm or injury to the public health, safety, or welfare. The FEA has determined that strict compliance with the requirements of section 7(i)(1)(B) of the FEAA would not enable the buy/sell program to be effectively implemented for the allocation quarter commencing September 1, 1975, since the industry needs immediate advice as to the transaction and directed sale periods now that the EPAA has been extended. By not waiving the requirements of the FEAA referred to above, FEA would cause serious harm and injury to the public safety and welfare, in that supply disruptions to small and independent refiners may result from a failure by FEA to specify the appropriate transaction and directed sale periods. Accordingly, such requirements must be waived, and this Special Rule is made effective immediately.

FEA is submitting a copy of this emergency amendment concurrently with the issuance thereof to the Administrator of the Environmental Protection Agency for his review and comments.

Because this amendment is being issued on an emergency basis, an opportunity for oral presentation of views has not been possible prior to its promulgation. However, a public hearing on the amendment will be held beginning at 9:30 a.m., e.s.t., October 23, 1975, in Room 2105, 2000 M Street NW., Washington, D.C., to receive comments from interested persons, and such comments will be considered by the FEA for purposes of determining whether Special Rule No. 5 should be amended on either a retroactive or prospective basis to the extent it is possible to do so. 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 for an opportunity 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.s.t., October 15, 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 October 17, 1975. Each person selected to be heard will be so notified by FEA before 5:30 p.m., e.s.t., October 17, 1975 and must submit 100 copies of his or her statement to Executive Communications, FEA, Room 2214, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., October 21, 1975.

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 the time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., October 21, 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 FEA and made available for inspection at the Administrator's Reception Area of the 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. Any person may purchase a copy of the transcript from the reporter.

Interested persons are invited to submit data, views, or arguments with respect to the emergency amendment to Executive Communications, Federal Energy Administration, Box EJ, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to Executive Communications, FEA, with the designation "Special Rule

No. 5". Fifteen copies should be submitted. All comments received by October 20, 1975, will be considered by FEA.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

This amendment has been reviewed in accordance with Executive Order 11821 and has been determined not to require evaluation of its inflationary impact.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended by Pub. L. 94-99; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185)

In consideration of the foregoing, Subpart C of Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., October 3, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

The Appendix to Subpart C of Part 211 is amended by the addition of a Special Rule No. 5 to read as follows:

SPECIAL RULE NO. 5

1. *Scope.* Notwithstanding any other provision in § 211.65 to the contrary, this Special Rule specifies for the allocation quarter commencing September 1, 1975, the transaction and directed sale periods and provides for prorating of purchase opportunities and sale obligations under § 211.65 in the event that the FEA's authority to allocate crude oil, which authority it currently has under the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), is not extended beyond November 15, 1975.

2. *Failure to negotiate transactions.* (a) Each refiner-buyer shall use its best effort to consummate the purchases of crude oil under this Subpart from refiner-sellers prior to requesting assistance from the FEA. For the allocation quarter commencing September 1, 1975, a refiner-buyer that is unable to negotiate a contract to purchase crude oil within seven days of the issuance of this Special Rule may request after the expiration of such seven day period, in accordance with the procedures established under Subpart G of Part 205 of this chapter, that the FEA direct one or more refiner-sellers to sell an acceptable type of crude oil to such refiner-buyer. Such request must be made within 20 days of the issuance of this Special Rule. Upon such request, the FEA may direct one or more refiner-sellers that have not sold their entire allocation obligation for the allocation quarter commencing September 1, 1975 to sell crude oil to such refiner-buyer, subject to the provisions of this Special Rule. If such refiner-buyer declines to purchase the crude oil specified by the FEA, the rights of that refiner-buyer under § 211.65 to purchase that volume of crude oil during that allocation quarter are forfeited, provided that each refiner-seller whose offer to sell is declined by such refiner-buyer has fully complied with all of the provisions of this Special Rule and of § 211.65.

(b) Refiner-sellers which within seven days of the issuance of this Special Rule have not negotiated sales of their entire allocation obligation for the allocation quarter commencing September 1, 1975, shall so notify the FEA. The FEA may then direct that refiner-seller to sell all or a portion of the unsold obligation to one or more refiner-buyers that have requested a directed sale pursuant to paragraph (a) of this section.

3. *Prorating of Purchase Opportunities and Sale Obligations.* (a) In the event that the FEA's authority to allocate crude oil is not extended beyond November 15, 1975, for the allocation quarter commencing September 1, 1975, (i) each refiner-buyer's purchase opportunity shall be 76/91 of the amount shown on the crude oil allocation notice for that allocation quarter, and (ii) each refiner-seller's sale obligation shall be as shown on the Appendix to this Special Rule; *provided*, that refiner-sellers shall offer for sale the full volumes required by any directed sale orders issued by the FEA on or before November 15, 1975

(b) In the event that the FEA's authority to allocate crude oil is extended beyond November 15, 1975, purchase opportunities and sale obligations of refiners for the allocation quarter commencing September 1, 1975, shall be equal to the amounts shown on the crude oil allocation notice for that allocation quarter.

(c) In directing sales pursuant to paragraph (a) of section 2 of this Special Rule for the allocation quarter commencing September 1, 1975, FEA shall take into account the provisions of paragraph (a) of this section, both with respect to the volume or volumes required to be sold to the refiner-buyer requesting the directed sale and with respect to the refiner-seller or refiner-sellers which FEA directs to make the sale.

4. *Provisions of Subpart C.* The provisions of Subpart C of Part 211 shall remain in full force and effect except as expressly modified by the provisions of this Special Rule.

APPENDIX.—*Revised seller obligations for the period*

September 1, 1975 through November 15, 1975

	Share	Sales (Barrels)	
		Primary obligation	Secondary obligation
Amoco	0.099	1,308,355	2,552,183
Atlantic Richfield	.072	537,133	1,874,187
Cities Service Oil	.023	1,047,962	599,351
Continental Oil Co	.034	0	0
Exxon Corp	.112	7,739,053	2,886,834
Getty/Skelly	.020	139,937	516,930
Gulf Oil Corp	.086	9,113,491	2,230,006
Marathon Oil Co	.022	603,606	556,899
Mobil Oil Corp	.089	4,334,392	2,292,476
Phillips Petroleum	.039	0	1,008,145
Shell Oil Co	.107	8,795,067	2,768,454
Socal/Chevron	.006	3,842,225	2,474,780
Sun Oil Co	.052	3,417,260	1,352,265
Texaco, Inc	.107	10,891,658	2,770,704
Union Oil Co. of California	.043	2,475,454	1,113,771
Total		54,326,603	24,987,045
Total allocation obligation			79,313,648

[FR Doc.75-27087 Filed 10-6-75;9:46 am]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Revision 9—Amendment 4]

PART 123—DISASTER LOANS

SBA Incorporates Provisions of RESPA in Disaster Policy

The Real Estate Settlement Procedures Act of 1974, 12 U.S.C. 2601, has an impact on SBA's residential relocation physical disaster loans. This amendment is to reflect this impact in SBA's disaster policy.

Because this amendment only incorporates a statutory requirement, it is effective upon publication. However, persons wishing to comment on this amendment are invited to send their comments to the Associate Administrator for Finance and Investment, 1441 L Street NW., Washington, D.C. 20416.

In consideration of the foregoing, § 123.3(a)(1) is amended as follows:

§ 123.3 Purposes of Loans.

(a) *Physical-loss disaster assistance.* (1) The purpose of these loans is to restore a victim's home or homes (including a mobile home used as a residence of the applicant) or business property as nearly as possible to predisaster condition. A loan to an individual may be used to repair or replace damaged or lost furniture and other household belongings or personal effects, except for irreplaceable or extraordinarily expensive items. Funds may be used to repair or replace destroyed or damaged inventory, machinery, or equipment. If the disaster victim elects to construct a new home or new business facilities on a different site, the loan may be used for such purpose. However, any such loan shall not exceed the estimated cost of restoring or replacing the damaged or destroyed property, plus amounts eligible for refinancing of existing liens or mortgages; SBA's lien position shall be at least as strong as it would have been if the victim had restored in the original location; and loans to relocate a 1 to 4 family residential structure will be subject to the Real Estate Settlement Procedures Act of 1974. SBA shall cancel any loan made in connection with a disaster occurring on or after January 1, 1972, and prior to April 20, 1973, if declared by the President or the SBA Administrator but in no event shall such cancellation of a loan exceed $5,000 and the cancellation shall not apply to any amount refinanced. Loans made in connection with a disaster occurring on or after April 20, 1973, will not be canceled in any amount.

* * * * *

Effective date: October 9, 1975.

Dated: September 30, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-27147 Filed 10-8-75;8:45 am]

[Revision 9—Amendment 5]

PART 123—DISASTER LOANS

SBA Corrects Disaster Refinancing Policy and Emphasizes Flood Insurance Requirements

When Revision 9, Part 123, was published (40 FR 3210D), an error was made in § 123.3(a)(2), Refinancing. Revision 9 liberalized the definition of "substantially damaged" but omitted the condition that such refinancing must be to avoid undue hardship for the disaster

victim, a condition of the liberalized definition of "substantially damaged." This amendment corrects that omission.

This amendment also makes it clear that the refinancing of prior loans is considered "financial assistance" and is subject to the provisions and restrictions of the Flood Disaster Protection Act of 1973.

Since this amendment merely corrects a previous publication and clarifies an existing policy, it is being published in final form without public comment. However, all persons wishing to comment on this amendment are invited to write to the Associate Administrator for Finance and Investment, 1441 L Street NW., Washington, D.C. 20416.

Section 123.3(a)(2) is hereby amended to read as follows:

§ 123.3 Purposes of loans.

(a) * * *

(2) *Refinancing.* A part or all of existing loans secured by recorded liens on real property lost or damaged by the disaster may be refinanced with a portion of disaster loan proceeds, provided (i) the property suffered damage of 30 percent or more of the market value at the time of the disaster, and (ii) such refinancing is necessary to avoid undue hardship for the disaster victim. However, existing loans secured by liens on real estate located within a special flood hazard area will be refinanced only when the community is participating in the Federal Flood Insurance program and Federal Flood Insurance can be purchased as a condition of approval of the SBA disaster loan. Such refinancing shall be limited to an amount which is not greater than the disaster-caused damage or loss in business loans, or home loans approved as the result of disaster occurring on and after July 1, 1973. In the case of a home loan, the monthly repayment of principal and interest may not be less than the amount of such payment made prior to the refinancing loan, on any loan approved as the result of a disaster occurring prior to July 1, 1973. Refinancing of personal property is not permitted in disaster home loans. Refinancing is permitted only when the uninsured (or otherwise uncompensated for) damaged property is to be repaired, rehabilitated, or replaced.

Effective date: October 9, 1975.

Dated: September 30, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-27148 Filed 10-8-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 75-GL-56]

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

Establishment of a Military Operating Area

On page 36144 of the FEDERAL REGISTER dated August 19, 1975, the FAA published a Notice of Proposed Rule Making which would amend §§ 71.123 and 71.181 of Part 71 of the Federal Aviation Regulations so as to establish a military operating area.

Interested persons were given 30 days to submit written comments, objections and arguments concerning the proposed amendments. Two comments were received objecting to the proposed airspace action. The Air Transport Association objected to the establishment of the MOA and the capping of the airway V177 from Duluth to Ely, Minnesota because the MOA will require North Central Airlines charter flights into Ely to operate at 9,000 feet and below when the MOA is in use. It does not appear that all of the charter flights will be required to operate below 9,000 feet, as the MOA will not be used continuously. When it is not in use the higher altitudes will be available. There should be very little impact on North Central Airlines operation.

Mr. R. J. McNutt, a Consulting Civil Engineer of Las Vegas, Nevada, objected to the designation of controlled airspace in the remaining uncontrolled portions of the State of Minnesota on the basis that the Snoopy MOA does not require that all of the remaining uncontrolled portion of Minnesota be designated as controlled airspace. It is our policy in areas where a majority of the area has been designated as controlled airspace to designate the entire area as controlled airspace. By so doing, the irregular areas of uncontrolled airspace are eliminated thereby making the controlled airspace more easily defined for pilots and air traffic controllers.

Controlled airspace is also required for aircraft operating between Fargo and Grand Forks, North Dakota, Duluth, Minnesota and the Beaver and the proposed Snoopy MOAs. Accordingly, the proposed amendments are hereby adopted.

These amendments shall be effective 0901 G.m.t., December 4, 1975.

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

Issued in Des Plaines, Illinois, on October 2, 1975.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.123, the following airways are amended:

V55—delete "13 miles, 29 miles, 27 MSL" and "7 miles, 58 miles 30 MSL, 31 miles 28 MSL".
V82—delete "20 miles, 51 miles, 29 MSL".
V129—delete "24 miles, 47 miles 30 MSL" and "24 miles 30 MSL" and "25 miles 30 MSL".
V161—delete "15 miles, 59 miles, 30 MSL".
V177—add "excluding the airspace 10,000 MSL and above Duluth to Ely".

In § 71.181 (40 FR 441), the following transition area is amended to read:

MINNESOTA

That airspace extending upward from 1,200 feet above the surface within the boundary of the State of Minnesota.

[FR Doc.75-27091 Filed 10-8-75;8:45 am]

[Airspace Docket No. 75-SO-101]

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

Alteration of Transition Area

On August 25, 1975, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (40 FR 37045), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Dillon, S. C., transition area.

Interest persons were afforded an opportunity to participate in the rulemaking through the submission of comments. There were no comments received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.M.T.,

In § 71.181 (40 FR 441), the Dillon transition area is amended as follows:

All after " * * * longitude 79 22'00" W.); * * *" would be deleted and * within 3 miles each side of the 233 bearing from the Dillon RBN (lat. 34 26'59" N., long. 79 22'10" W.), extending from the 5-mile radius area to 8.5 miles southwest fo the RBN * * *" would be substituted therefor. (Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c))).

Issued in East Point, Ga., on October 1, 1975.

W. B. RUCKER,
Acting Director,
Southern Region.

[FR doc75-27092 Filed 10-8-75;8:45 am]

[Airspace Docket No. 75-RM-29]

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

Designation of Control Zone and Transition Area

On August 29, 1975, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (40 FR 39898) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a control zone and transition area at Hayden, Colorado.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendment is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.M.T., December 4, 1975.

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

Issued in Aurora, Colorado, on October 8, 1975.

M. M. MARTIN,
Director,
Rocky Mountain Region.

In § 71.171 (40 FR 354) the following control zone is added:

HAYDEN, COLORADO

Within a 5 mile radius of Yampa Valley Airport (latitude 40°28'53" N, longitude 107°13'08" W), within 3.5 miles each side of the Hayden VOR 301° radial extending from the 5 mile radius zone to 11.5 miles northwest of the VOR.

This control zone is effective during the specific dates and times established in advance by a notice to airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual.

In § 71.181 (40 FR 441) designate a transition area for Hayden, Colorado to read:

HAYDEN, COLORADO

That airspace extending upward from 1200 feet above the surface within an area bounded by a line beginning at latitude 40°-06'00" N, longitude 107°00'00" W; to latitude 40°43'00" N, longitude 107°00'00" W; to latitude 40°43'00" N, longitude 107°41'00" W; to latitude 40°07'05" N, longitude 107°-41'00" W; thence along the north edge of V200 to the point of beginning.

[FR Doc.75-27093 Filed 10-8-75;8:45 am]

[Airspace Docket No. 75-SW-55]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a 700-foot transition area at Magnolia, Ark.

On August 18, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 34605) stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Magnolia, Ark.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 4, 1975, as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

MAGNOLIA, ARK.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Magnolia Municipal Airport (latitude 33°13'45" N., longitude 93°13'00" W.); within 3.5 miles each side of the 171° bearing from the NDB (latitude 33°13'40" N., longitude 93°13'07" W.) extending from the 8.5-mile radius area to 12 miles south of the NDB.

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

Issued in Fort Worth, Tex., on September 30, 1975.

ALBERT H. THURBURN,
Director,
Southwest Region.

[FR Doc.75-27094 Filed 10-8-75;8:45 am]

[Airspace Docket No. 75-SW-53]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a 700-foot transition area at Carrizo Springs, Tex.

On August 13, 1975, a notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 33998) stating the Federal Aviation Administration proposed to designate the Carrizo Springs, Tex., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 4, 1975, as hereinafter set forth.

In § 71.181 (40 F.R. 441), the following transition area is added:

CARRIZO SPRINGS, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Dimmit County Airport (latitude 28°31'25" N., longitude 99°49'30" W.) and within 3 miles each side of the 124° bearing from the NDB (latitude 28°31'19" N., longitude 99°49'38" W.) extending from the NDB to 8.5 miles southeast.

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

Issued in Fort Worth, Tex., on September 30, 1975.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.75-27095 Filed 10-8-75;8:45 am]

[Airspace Docket No. 75-RM-30]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Area High Route Extensions

On September 16, 1975, a Notice of Proposed Rule Making (NPRM) was published in the FEDERAL REGISTER (40 FR 42756) starting that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would extend J-906R and J-920R and relocate the MESIC waypoint.

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

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 4, 1975, as hereinafter set forth.

Section 75.400 (40 FR 724) is amended as follows:

a. In J-801R "MESIC 35°42'41"N. 115°36'17"W. Boulder City, Nev." is deleted and "MESIC 35°44'20" N. 115°32'01" W. Boulder City, Nev." is substituted therefor.

b. In J-904R "MESIC 35°42'41"N. 115°36'17" W. Boulder City, Nev." is deleted and "MESIC 35°44'20"N. 115°32'01"W. Boulder City, Nev." is substituted therefor.

c. J-906R is amended to read as follows:

Los Angeles, Calif., to Ogden, Utah.
Los Angeles, Calif. 33°55'59"N. 118°25'52"W.
Palmdale, Calif. Hector, Calif. 34°47'49"N. 116°27'43"W. Boulder City, Nev.
MESIC 35°44'20" N. 115°32'01" Boulder City, Nev.
ADAPT 37°40'22" N. 113°31'53" W. Wilson Creek, Nev.
FOOLS 39°38'15" N. 112°18'42" W. Delta, Utah.
Ogden, Utah 41°13'27" N. 112°05'51" W. Malad City, Mont."

d. In J-920R "KRUMS 49°00'00"N. 109°14'25"W. Lewistown, Mont. is added prior to MILLE. . .

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

Issued in Washington, D.C., on October 2, 1975.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.75-27096 Filed 10-8-75;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1009—GENERAL STATEMENTS OF POLICY OR INTERPRETATION

Importation of Consumer Products

The purpose of this notice is to issue the Consumer Product Safety Commission's Statement of Policy on the Importation of Consumer Products and to respond to comments submitted on the Proposed Statement of Policy on the Importation of Consumer Products. The proposed statement was published in the August 7, 1974, FEDERAL REGISTER (39 FR 28455).

Although the matter is considered a general statement of policy and, therefore, exempt from the notice and public procedure provisions of 5 U.S.C. 553 (b) and (c), the Commission decided, in view of the importance of the policy, to allow public comment on the proposed policy. Sixteen comments were submitted to the Commission. Comments were received from one association of importers, five importers, two public interest groups, five trade associations, one individual, and two foreign governments.

A summary of the comments and the Commission's responses to these comments are as follows:

AGREEMENT WITH POLICY

Four of the comments expressed general agreement with the Commission's

policy, although one requested clarification of ambiguities concerning the action the Commission will take to avoid creating barriers to free trade. The Commission has revised its policy statement to delineate specifically the kinds of accommodations it will make to avoid creating barriers to free trade.

SPECIAL TREATMENT FOR IMPORTERS

Four comments questioned the equivalency of importers and manufacturers and indicated that imports have a special status and should be given special consideration. One comment urged that the "principle of equivalence" be abandoned. The comment argued that this Commission ought not routinely to assume that, because certain requirements may be imposed pursuant to the Consumer Product Safety Act, any "principle of equivalence" exists under that Act or that the Commission may disregard the statutory framework of the other laws which it enforces.

Another comment asserted that imports cannot, and should not, be treated in the same way as domestic products. The comment contended that explicit recognition of imports, importers and foreign manufacturers as special cases within the scope of the Commission's activities is the only way to achieve even-handed enforcement and realistic placement of responsibilities under the various acts and regulations administered by the Commission.

The Commission did not intend to imply that there is a precise equivalency between importers and manufacturers. The Commission recognizes that the importer may not technically "manufacture" the goods and, thus, may not be in the same position as the actual manufacturer to directly control the safety aspects of a product's design and production. However, the Commission also recognizes that the importer is in a unique position in the chain of distribution. By influencing the foreign manufacturer and monitoring the safety of the products imported, the importer can indirectly control product design and production. Because the importer determines what foreign goods are brought into the United States, the importer must be the one to bear the primary responsibility for the safety of those products.

It is clear that Congress intended that under the Consumer Product Safety Act the importer be faced with the same basic responsibilities as the domestic manufacturer. The Congress specifically defined the term "manufacturer" to include any person who imports a consumer product. (Section 3(a)(4); 15 U.S.C. 2052(a)(4)). The House Committee Report explains that "importers are made subject to the same responsibilities as domestic manufacturers." (H.R. Rep. No. 92-1593, 92d Cong., 2d Sess. 28 (1972).* Thus, every time the Congress placed a responsibility on the domestic manufacturer, it placed the same responsibility on the importer. Although the other acts administered by the Commission do not contain an express statement to the effect that the manufacturer and the importer are to bear equal responsibility, the provisions of the acts do indicate that the importer and the manufacturer are to have equal responsibilities. In those acts, for every responsibility imposed upon a manufacturer, there is a parallel responsibility placed on importers. For instance, the Flammable Fabrics Act prohibits the manufacture for sale of those articles which do not comply with the provisions of the Act. If also proscribes the sale, the offering for sale, or the importation into the United States of noncomplying items (Section 3(a); 15 U.S.C. 1192). Such proscriptions would clearly apply to the importer and give him or her the same responsibility as the domestic manufacturer for keeping unsafe items out of commerce. The provisions of the Act relating to enforcement, injunctions, and condemnation draw no distinctions between manufacturers and importers (Sections 5 and 6; 15 U.S.C. 1194, 1195). Further, the provisions for the maintenance of records, inspections, testing and guaranties are not limited solely to domestic manufacturers and domestic products (Sections 5 (c) and (d), 8; 15 U.S.C. 1194 (c), (d) 1197).

Similarly, the Federal Hazardous Substances Act imposes equal responsibilities on the importer and on the manufacturer. The thrust of the Federal Hazardous Substances Act is to keep hazardous substances out of the channels of interstate commerce. To this end, the Act subjects the importer to the same proscriptions as the domestic manufacturer. In those instances where the Federal Hazardous Substances Act imposes affirmative obligations on persons, it is clear that those obligations fall upon importer and domestic manufacturer alike. The importer must allow the inspection of his or her premises (Section 11(b), 15 U.S.C. 1270(b)), must permit sampling of products (Sections 11(b) and 14(a); 15 U.S.C. 1270(b), 1273(a)) and the importer, like the domestic manufacturer, has the ultimate responsibility under the Federal Hazardous Substances Act to repurchase banned hazardous substances (Section 15(b); 15 U.S.C. 1274(b)).

It is clear from the statutes which the Commission has the responsibility of enforcing that Congress did not intend that the importers be given any "special" treatment. Congress recognized the important role every entity in the chain of distribution has in seeing that the public is protected from unsafe goods. For the Commission to carve out special treatment status for the importer would be directly contrary to the Commission's congressional mandate.

There may be instances in which special consideration can be given foreign manufacturers and importers regarding purely administrative matters. So long as the safety of the American public will not be adversely affected, the Commission will in instances where good cause is shown consider practices which alleviate administrative burdens for the importer and foreign manufacturer.

One comment suggested that the policy should distinguish between the importation of a consumer product by one who operates primarily as a distributor and one who is both the manufacturer and the importer. The comment recommended that in instances in which the importer is not also the manufacturer, the foreign manufacturer should be required to produce a certificate of compliance to its importer, to maintain an office in the United States, and to show proof of liability insurance covering all of its products. Under such circumstances, the importer would not bear any liability for the manufacturer's products unless the importer had assembled or modified the products.

The Commission does not have the authority to require foreign manufacturers to maintain offices in the United States or to show proof of liability insurance covering their products imported into the United States. If the Commission were to accept the suggestion that it impose such requirements on the foreign manufacturer, it would be exceeding its statutory authority. However, the importer, through contractual relation with the foreign manufacturer, may be able to insist that the foreign manufacturer maintain offices in the U.S. or show proof of liability insurance.

One of the comments expresses the fear that the Commission may step beyond the bounds of its statutory authority in implementing a policy of equivalence. The Commission certainly does not intend to exceed its statutory authority, but neither does it intend to shrink from exercising the full authority which it has been given. It is this Commission's policy that all laws, standards and regulations will be enforced to the maximum extent, including the use of civil and criminal actions where appropriate. This means that all responsible individuals, including importers, distributors, retailers and manufacturers will be expected to assume their responsibilities under the Acts. When importers introduce banned hazardous substances or products that contain substantial product hazards into commerce, they will be held responsible for repurchase or repair, refund, or replacement just as domestic concerns are held responsible. To impose such requirements on domestic products and not on imported products would be unfair to domestic manufacturers and would not, the Commission believes, adequately protect the American consumer.

RESTRICTIONS ON THE FREE MOVEMENT OF GOODS THROUGH PORTS OF ENTRY

Three comments addressed the issue of the past and continuing practices of government agencies sampling and detaining consumer products at a port of entry while the agency secures samples, runs tests and makes a determination that such product is or is not in violation of a regulation. The comment stated that such practices often impede the free flow of commerce and create delay and expense by incurring demurrage

charges on products that do not violate a law or regulation. Further, the argument is given that no such restriction applies to domestic manufacturers.

Additionally, comments from the British and Hong Kong governments and a comment from the Confederation of British Industry urged that the Commission endeavor to avoid procedural requirements which create nontariff barriers to trade. Particular concern was expressed over regulations governing certification and labeling requirements, the implementation of which could cause delays to goods entering the country.

One comment, while critical of past practices, suggests that the Commission use bonding procedures which permit goods to be delivered and held under bond while compliance documents or other compliance requirements are being met. If the importer fails, upon demand, to redeliver goods under bond to customs custody, the importer is fined by forfeiting a portion of the bond. The comment argued that it would be reasonable for the Commission to think in such terms since it is unlikely, particularly for some period of time, that the Commission will be able to conduct tests for compliance within the 'free time' period within which importers must move their goods away from the port without incurring demurrage charges. The same comment recommended that the Commission policy statement recognize the need to establish and implement procedures which will minimize delay and expense involved in holding cargo at a port of entry.

The Commission agrees with the recommendation that importers not be subjected to requirements in excess of those placed on domestic manufacturers. However, in accepting this goal, the Commission believes that a distinction must be drawn between importers and imported products. While the Commission does not intend to subject importers to requirements in excess of those placed on domestic manufacturers, imported products are subject to certain restraints which may not exist for domestically produced products. Congress has instructed that certain defective products be denied entry altogether into the territory of the United States, whereas the counterpart domestic product may have been distributed in commerce prior to action being taken against the manufacturer, distributor, or retailer. The Commission does not view such provisions as inconsistent, but rather regards them as an indication that Congress intended to protect the American consumer whenever possible from unnecessary exposure to unsafe products.

The Commission cannot accept the suggestion that it rely primarily on the bonding authority of the Customs Service to secure redelivery of goods found to be violative of the Act after the goods have moved from Customs custody. The Commission feels that a primary reliance on the bonding authority would be ineffective in carrying out the Commission's obligation to protect the public from unsafe products. Forfeiture of the bond by an importer whose products do not comply with the law would provide inadequate motivation for assuring conformity with applicable regulations.

The Commission prefers to rely on its ability to motivate all individuals in the chain of distribution—manufacturers, importers, distributors, and retailers—to comply with their obligations to see that the public is protected from unsafe products. Such motivation will be effected by utilizing civil and criminal penalties when violations are found and by requiring repurchase, repair, refund or replacement of defective goods where appropriate.

The Commission intends to rely upon its authority to inspect and test consumer products at all points in the distribution chain to determine if the law is being complied with. As a result the Commission can be expected to select samples of consumer goods at the port of entry for testing.

The importer may not be required to hold intact the entire shipment of goods from which testing samples have been selected. The importer may be free to distribute the goods, but if this course of action is adopted, the importer will be required to recognize that he or she bears a responsibility to see that those goods are in compliance with the law and that the importer faces action by the Commission if they are not. In this manner the Commission's sampling and testing would serve as a method of insuring that importers are complying with their obligations under the laws, rather than serving as a clearance process. However, the Commission can request the Customs Service to deny entry altogether of those shipments which it has reason to believe are violative of the law and the Commission regulations. The Commission has an obligation under the laws it administers to do so.

Concern was expressed that the certification and labeling requirements could become non-tariff barriers to trade. The Commission views the certification and labeling provisions as a means of insuring a freer flow of goods than presently exists. Proper certification and labeling can reduce the need for the government to test products at ports of entry and, if applied in an equitable manner to both domestic and foreign made goods, would not become non-tariff barriers to trade.

Definition of Importer

One association suggested that the policy statement define the term "importer" so as to exclude customs brokers who are not the actual owners of goods being imported. Although the Commission does not foreclose the possibility of developing a clarification of the term "importer" in the future, reasons for the exclusion were not sufficiently supported in the comment. The Commission therefore declines to include such an exclusion in the policy statement.

Obligations of Foreign Manufacturers and the Role of Foreign Governments

The British and Hong Kong governments express a concern that the placing of responsibility on importers for the certification and recordkeeping liabilities of overseas manufacturers will make importers reluctant to purchase goods from abroad. There is concern that through such a practice domestic products would receive an advantage over imports because distributors would have an added incentive to deal with domestic manufacturers whose recordkeeping ability is more readily ascertainable and will probably be more acceptable to the relevant authorities. Further, it is suggested that reliance on competent and accredited facilities in the country of export would facilitate the flow of exports and would also simplify the Commission's role of inspecting imports at ports of entry.

In emphasizing the responsibility of U.S. importers, the Commission did not mean to imply that importers will be required to undertake obligations of foreign manufacturers who wish to trade in the U.S. market. The fact that importers have obligations comparable to domestic manufacturers is not meant to imply that importers are to assume all responsibilities of the foreign manufacturer. For instance, the importer may have to comply with certain recordkeeping requirements. Such requirements will deal with the importer's business and transactions, not with the foreign manufacturer's transactions. Further, such recordkeeping requirements may be imposed on the distributor of domestic products as well as importers and domestic manufacturers, so distributors of domestic goods will gain no advantages over distributors of foreign goods.

The concept of establishing competent testing facilities in the country of export to facilitate the flow of goods is consistent with the intent of the Consumer Product Safety Act. Section 17 of the Consumer Product Safety Act (15 U.S.C. 2063) requires that any consumer product offered for importation into the customs territory of the United States be refused admission if such product is not accompanied by a certificate or label as required under Section 14 (15 U.S.C. 2063).

It was the intent of Congress that foreign manufacturers and importers, not the Commission, test and certify products as to their conformance with a safety standard. What testing of products the Commission undertakes is intended to assure that false or inaccurate certifications are not being issued. It is anticipated that importers will be permitted to utilize tests performed by manufacturers or independent laboratories whether on domestic soil or foreign soil. In fact, Section 14(b) (15 U.S.C. 2063(b)) specifically allows testing to be conducted by an independent third party qualified to perform the testing. However, the prudent importer will seek validation of tests performed by a foreign concern, for the importer will be held

responsible for the certification issued. The degree to which certification and labeling requirements present an impediment to the flow of goods will be determined by the compliance and degree of cooperation between the foreign manufacturer and the importer.

Foreign manufacturers concerned with a reluctance of American importers to assume obligations with respect to goods imported from their country are in no way precluded from agreeing to indemnify an American importer for obligations incurred resulting from such products. The American importer can exercise various options in order to be protected against liability and assured that the products he or she imports are safe. Domestic manufacturers, distributors and retailers have similar options.

The Commission's intent is to encourage all actions which will add to the assurance of safer products. The more such actions are implemented, the less likelihood there will be for any Commission impediment to the free movement of goods.

The Time Factor

Four comments indicated that importers, unlike domestic producers, undertake contractual obligations long in advance of the merchandise entering the marketplace and long before the standard setting or regulatory procedure for a product has ever begun. Further, the comments stated that it takes longer for shipments of imported goods to arrive at the point of destination and that the problem is particularly true of seasonal goods. The comments suggested that some recognition of this fact of commercial life must be made and that the importer is entitled to special recognition with respect to the effective date of Consumer Product Safety Commission regulations. One comment suggested a longer period of time for importers and their foreign manufacturers to comply with those portions of the standard that are not safety related, such as labeling, recordkeeping and similar requirements. The comment went on to suggest that to maintain a balance between our mutual concern for safety and an equitable treatment of imported products, "negative labeling" of a product be utilized where timely compliance is impossible.

The Commission recognizes a need to consider the time factor with regard to foreign produced goods. In the contemporary world, however, with instantaneous worldwide communications networks and rapid freight handling and transportation systems, the Commission does not wish to exaggerate the problem. Retailers and distributors of domestic products face similar problems with respect to seasonal merchandise and contractual relationships.

The Commission believes that the issues raised concerning the time factor do not require special treatment for importers as a matter of general policy, but that such concern can be addressed on a case by case basis along with other considerations when establishing the effective date of a given standard or regulation. During the development of individual regulations, importers and foreign manufacturers will have an opportunity to comment on the effective date. Under Section 9(c)(1) of the Consumer Product Safety Act (15 U.S.C. 2058(c)(1)), the Commission must make appropriate findings with respect to the need of the public for the consumer products subject to such rule and the probable effect of such rule upon the utility, cost or availability of such products to meet such need, and the means of achieving the objective of the order while minimizing adverse effects on competition or disruption or dislocation of manufacturing and other commercial practices consistent with the public health and safety must also be considered. The effective date of a regulation is established after considering such factors as the impact on importers or foreign manufacturers, as well as on domestic manufacturers, distributors, private labelers, and retailers. To give special considerations such as allowing "negative labeling" for imported products and not for domestic products might be unfair to domestic manufacturers.

Communicating with Importers and Foreign Manufacturers

Two comments made reference to the need of the Commission to adequately inform and consult with importers and foreign manufacturers and make available to foreign governments and foreign businessmen as much of the same information available to domestic businessmen as practicable and possible. One comment pointed out that "There may exist a language barrier when translation is necessary from English into the foreign language and back again into English of sometimes highly technical or intricate regulations. Given the short time period alloted for participation in standards setting or comments on proposals, the problem of communication to a foreign manufacturer may preclude any participation on that manfacturer's part. Losing his participation and technical expertise may be detrimental to the safety of the American Consumer. The same problems arise in communicating final safety standards to the foreign manufacturer".

The Commission recognizes the need to adequately inform and consult with importers and foreign manufacturers and make available to foreign governments and foreign businesses the same information as is available to domestic businesses. The Commission welcomes the participation of all interested parties in its standards development procedures. The Commission conducts its business in an open public forum without exclusion of foreign interest. The Consumer Product Safety Act requires the Commission, when proceeding to develop a consumer product safety standard, to include information with respect to any existing standard known to the Commission which may be relevant to the proceeding, and it provides for an invitation for any person to submit an existing standard as the proposed standard or to offer to develop the proposed consumer product safety standard. The Commission has interpreted this to include existing foreign and international standards and to allow participation by foreign interests. Further, the Commission believes that the Consumer Product Safety Act provides ample opportunity for foreign manufacturers and importers to become involved in the standards making process. They can petition the Commission to commence a proceeding to issue a consumer product safety rule, and they can submit an offer to develop a rule. Such action on their part would insure that they were involved from the very beginning with the development of rules which may affect them. Even if the foreign manufacturers and importers do not become involved in the initial standards making process, the Consumer Product Safety Act requires that the Commission provide interested parties an opportunity to comment on a proposed rule. The period from the beginning of the standard development procedure through the time the proposed rule is published in the Federal Register for comments should give foreign manufacturers sufficient time to be informed of the possible standard and to be alert for and prepared to comment on the proposed rule.

The Commission is committed to specifying its consumer product safety standards in metric units as well as in domestic measurement units. The Commission is sympathetic to the problem of translating from English into a foreign language, however, the Commission cannot assume responsibility for translating materials into the many foreign languages.

Cooperation with Other National Standard Bodies and International Standard Organizations

The Confederation of British Industry suggested that the Commission, whenever possible, seek to avoid preempting the establishment of international standards by adopting its own standards. Where international standards already exist, the Confederation recommended that the Commission follow them in its own proposals. The Commission should, in cooperation with other national standard-formulating bodies, seek to encourage the more rapid development of international standards.

Whenever the Commission undertakes the development of a mandatory standard, relevant international standards are included among those examined by the Commission's staff. Under Section 7 of the Consumer Product Safety Act an offeror may propose an existing international standard for adoption as a mandatory standard. On an offeror may include in a standard being developed applicable portions of existing international standards. The Commission has no policy that would cause it to ignore international standards. Neither does the Commission believe it would be appropriate, when a mandatory standard is needed, to adopt an international standard simply because one exists.

The Commission encourages the development of voluntary safety standards, both domestic and international. The extent to which voluntary standards effectively address a safety problem may help to determine the need for a mandatory standard.

The Commission recognizes the value of participating in voluntary standards development bodies that concern products subject to its jurisdiction. On June 20, 1975, it published in the FEDERAL REGISTER (40 FR 26023) a statement of policy regarding employee membership and participation in voluntary standards organizations including the American National Standards Organizations including the American National Standards Institute which represents U.S. interests in international standardization activities.

ECONOMIC IMPACT

One comment suggested that the policy statement indicates that the Commission will consider the economic impact of a proposed standard before finally adopting the standard.

Sections 9(c)(1) (C) and (D) of the Consumer Product Safety Act (15 U.S.C. 2058(c)(1) (C) and (D)) require that the Commission consider the effect a proposed consumer product safety rule will have on the cost and availability of a product to the public. It further requires the Commission to consider means of minimizing adverse effects on competition and disruption of commercial practices. Naturally, consideration of such matters will be weighed by the Commission in respect to action affecting both domestic and foreign goods.

The other acts administered by the Commission do not require findings regarding the economic impact of proposed standards. As a matter of policy, the Commission attempts to consider the economic ramifications in determining reasonable courses of action.

After considering the comments received in response to the Proposed Statement of Policy on the Importation of Consumer Products (39 FR 28455), the Commission issues the following policy. Therefore, pursuant to the provisions of the Consumer Product Safety Act (15 U.S.C. 2051–81), the Federal Hazardous Substances Act (15 U.S.C. 1261–1274), the Flammable Fabrics Act (15 U.S.C. 1191–1204), the Poison Prevention Packaging Act (15 U.S.C. 1471–76), and the Refrigerator Safety Act (15 U.S.C. 1211–1214), the Consumer Product Safety Commission amends Title 16 of the CFR by adding to Chapter II part 1009, containing at this time only one section, as follows:

§ 1009.3 Policy on imported products, importers, and foreign manufacturers.

(a) This policy states the Commission's views as to imported products subject to the Consumer Product Safety Act (15 U.S.C. 2051) and the other Acts the Commission administers: The Federal Hazardous Substances Act (15 U.S.C. 1261), the Flammable Fabrics Act (15 U.S.C. 1191), the Poison Prevention Packaging Act (15 U.S.C. 1471), and the Refrigerator Safety Act (15 U.S.C. 1211). Basically, the Policy states that in order to fully protect the American consumer from hazardous consumer products the Commission will seek to ensure that importers and foreign manufacturers, as well as domestic manufacturers, distributors, and retailers, carry out their obligations and responsibilities under the five Acts. The Commission will also seek to establish, to the maximum extent possible, uniform import procedures for products subject to the Acts the Commission administers.

(b) The Consumer Product Safety Act recognizes the critical position of importers in protecting American consumers from unreasonably hazardous products made abroad and accordingly, under that Act, importers are made subject to the same responsibilities as domestic manufacturers. This is explicitly stated in the definition of "manufacturer" as any person who manufacturers or imports a consumer product (Section 3(a)(4); 15 U.S.C. 2052(a)(4)).

(c) The Federal Hazardous Substances Act (15 U.S.C. 1261 *et seq.*), the Flammable Fabrics Act (15 U.S.C. 1191 et *seq.*), the Poison Prevention Packaging Act (15 U.S.C. 1471 *et seq.*), which were transferred to the jurisdiction of the Consumer Product Safety Commission under its enabling act, all assign responsibilities to importers comparable to those of manufacturers and distributors.

(d) Historically, foreign-made products entering the United States were "cleared" by those agencies with particular jurisdiction over them. Products so cleared were limited in number relative to total imports. The Consumer Product Safety Commission has jurisdiction over a far larger number of products entering the United States through over 300 ports of entry. In addition, the total number of imports has dramatically increased over the years and modern technology has brought air transport and containerized freight for rapid handling and distribution of consumer and other products. For the Commission to effectively "clear" such products through ports of entry could seriously impede and delay the transport of consumer products and impose additional costs to both the consumer and the importer.

(e) The Consumer Product Safety Act provides alternative means to both assure the consumer safe products and facilitate the free movement of consumer products in commerce. For example, it requires certification by manufacturers (foreign and domestic), importers and private labelers of products that are subject to a consumer product safety standard. Such certification must be based on a test of each product or upon a reasonable testing program. The other acts enforced by the Commission do not specifically require certificates; however, both the Flammable Fabrics Act and the Federal Hazardous Substances Act encourage guarantees of compliance by protecting from criminal prosecution persons who have in good faith received such guarantees (15 U.S.C. 1197(a); 16 CFR 302.11; 15 U.S.C. 1264(b)).

(f) In the interest of giving the American consumer the full measure of protection from hazardous products anticipated by the Congress, it is the Commission's policy to assure that importers and foreign manufacturers carry out their responsibilities under all laws administered by this Commission. Specifically:

(1) Importers have responsibilities and obligations comparable to those of domestic manufacturers. Rules and regulations promulgated by the Commission will reflect these responsibilities and obligations.

(2) In promulgating its rules and regulations, the Commission encourages the participation and comments of the import community, including importers and foreign manufacturers.

(3) All imported products under the jurisdiction of the Consumer Product Safety Commission shall, to the maximum extent possible, be subject to uniform import procedures. The Commission recognizes the need to establish and implement procedures that minimize delay and expense involved in inspecting cargo at a port of entry. The Commission encourages cooperation between importers, foreign manufacturers and foreign governments, which increases the safety of the consumer and facilitates the free movement of goods between countries.

(4) When enforcement actions are appropriate, they will be directed toward the responsible officials of any import organization and will not be restricted to action solely against the product.

(5) Commissioned procedures on imports shall be developed in the context of the overall responsibilities, authorities, priorities, resources, and compliance philosophy of this Commission. Any existing procedures which have been inherited from predecessor agencies will be reviewed and revised, if necessary, to be consistent with the authority and philosophy of this Commission.

(g) The Commission recognizes that the importer may not be the only person to be held responsible for protecting American Consumers from unreasonably hazardous products made abroad, but the importer is, at least, in a strategic position to guarantee the safety of imported products.

(h) Whenever, in the application of this policy, it appears that barriers to free trade may arise, the Commission may consider exceptions to this policy insofar as it can be done without comprising the Commission's responsibilities to assure safe products to the consumer.

(i) Whenever, in the application of this policy, it appears that administrative or procedural aspects of the Commission's regulations are unduly burdening the free flow of goods, the Commission may consider modifications which alleviate such burdens. However, the Commission cannot consider any modifications which do not assure the consumer the same protection from unsafe foreign goods as from unsafe domestic goods.

(Sec. 9, 15 U.S.C. 1198, 67 Stat. 114; Sec. 14, 15 U.S.C. 1273, 74 Stat. 379; 80 Stat. 1304, 1305; Sec. 17, 15 U.S.C. 2066, 86 Stat. 1223)

Effective date: October 9, 1975.

Dated: October 6, 1975.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.75-27199 Filed 10-8-75;8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Regulations No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED (1974————)

Suspensions, Terminations, and Reconsideration

On January 4, 1974, and January 29, 1975, there were published in the FEDERAL REGISTER (39 FR 1053; 40 FR 4316) Notices of Proposed Rule Making with amendments to Subparts M and N of Regulations No. 16. The proposed amendments provided policies and procedures governing notification to claimants of planned adverse actions pursuant to the *Goldberg* v. *Kelly* decision and the conduct of reconsiderations under the supplemental security income program.

Interested persons were given the opportunity to submit within 30 days, data, views, or arguments with regard to the proposed changes.

Most of the commenters expressed concern with the proposed change in § 416.1336(c) and § 416.1419(a) (now § 416.1421) which reduces from 30 to 10 days the time period in which a claimant must appeal a proposed adverse action in order to have the right to continuing payments while his appeal is being decided. It was argued that 10 days is simply too short a period in which to expect an aged, blind, or disabled claimant to be able to comprehend the notice explaining the determination, decide on his course of action, and effectively communicate his desire to appeal. Cited, among others, as impediments to making an effective response to the notice are such factors as individual handicaps, inability to understand complex notices and the appeal process, the need to seek advice or assistance, lack of effective communication skills, mail delivery problems, lack of adequate transportation or telephone service, and a general reluctance to assert rights against a governmental entity.

The Social Security Administration recognizes these as valid concerns and they were considered in formulating the proposed rules. However, it is believed that the 10 day time period is not an unreasonable one, even in the face of these concerns, when the following points are considered.

First, the 10-day period is measured from the date the claimant receives the notice. Thus, a rebuttable presumption that mail is delivered in 5 days is applied, providing the claimant, in effect, with 15 days from the date of the notice in which to appeal. A reasonable showing that the notice was not actually delivered within 5 days results in full restoration of the right to continued payment while an appeal is pending if the appeal was requested within 10 days of the actual date of receipt of the notice. Second, a liberal "good cause" provision exists for persons who fail to appeal within the 10-day period due to circumstances beyond their control, such as illness, misinformation, or other unusual or unavoidable circumstances which prevent a timely appeal. A showing of good cause extends the 10-day period with full rights to continued payment during the pendency of an appeal.

Third, all notices to claimants encourage them to get in touch with a social security office either in person, by telephone, or by mail, if they have any questions about the notice. While it is true that to preserve the right to continued payment the claimant must act promptly upon receipt of the notice, it does not seem unreasonable to expect a person in need to do so when faced with a determination that his payments will be reduced or stopped. Moreover, to protect the right to continued payments, it is only necessary that the desire to appeal be made known within the 10-day period. Arrangements for the appeal, obtaining legal assistance, if desired, and perfection of the case can all be accomplished after the request has been filed. The wide-ranging network of social security offices provides ready access to most claimants and these offices stand ready to assist claimants in every way possible. Further, although a written request for appeal is required, operating procedures provide that an oral request will protect the claimant's rights if the request is followed up by a written confirmation within a reasonable period.

Finally, the formal written notice of the proposed adverse action will not normally be the first communication of the impending action and should not generally come as a surprise to the claimant. Operating policies contemplate that, in most instances, the Social Security Administration will have been in contact with the claimant prior to release of the formal notice. This contact would occur either when the claimant reports the event causing the adverse action, or when the agency attempts to verify with the claimant such a report received from a third party. At this point, the potential impact of the report is discussed and the rights of appeal and continued payment are explained. The written notice then formalizes the determination and the claimant's rights with respect to it.

Certain administrative considerations were also involved in the decision to amend this provision. By reducing the time period within which a claimant must appeal a proposed adverse action in order to have the right to continuing payments, the Social Security Administration will be able to automate the notification and case control process which is at present largely a manual operation. Automation will result in expedited processing of reports of change affecting eligibility status or amount of benefits and help to ensure the recipient of swifter action on his claim while producing a more accurate and more easily retrievable history record of the claim. Further, the shortened time period will reduce the amount of potential overpayments which arise under the rules currently in effect and which would be subject to recovery. Minimizing the volume and frequency of overpayments serves the interests of both the supplemental security income recipient and the Social Security Administration.

In light of the above considerations, the requirement of appealing within 10 days to preserve the right to continued, unreduced, payments would facilitate improved service to the recipient and is reasonable. Therefore, this provision is unchanged.

In connection with the comments on the claimant's inability to respond within the 10-day period, numerous objections were raised to the fact that, although advance notice of an adverse action is given, effectuation of the action is actually programmed at the time the notice is generated. As a consequence, it was noted, in many cases the reduction or stoppage of payments may occur even though an appeal is requested within the 10-day period. It is true that such interruptions in the established payment rate can occur. However, in any such case where an appeal has been filed within the 10-day period, or good cause is shown for failure to timely file within the 10-day period, payments will be reinstated to the prior established rate, if the claimant wishes, and so continued until a decision on the appeal is rendered. Reinstatement will be accomplished through the established one-time payment procedure. A number of the organizations commenting expressed a lack of confidence in this procedure to swiftly reinstate payments. However, the procedure has been steadily improved since its inception and now is generally capable of actually putting payment in the recipient's hands within 3 to 5 days after action is initiated. Thus, any interruptions of the established payment level should be of short duration and not cause undue hardship to the claimant.

Another frequently noted objection to the proposed amendments concerned that portion of § 416.1419 which provides that failure to request appeal within the 10-day period, or waiver of the right to advance notice and continued payment, results in loss of the right to the formal conference procedure under reconsideration or, in the case of an appeal involving medical cessation of blindness or disability, loss of the right to immediate escalation of the appeal to the statutory hearing. Because of the comments on this issue, § 416.1419 (now § 416.1421) and § 416.1336(c) have been changed to

provide that, regardless of whether there is advance notice and continued payment upon appeal, the claimant retains the right to the above procedures in any situation where the provisions of the *Goldberg* v. *Kelly* decision had originally been determined to apply.

Several commenters raised objections to § 416.1416 (now § 416.1415) which provides that the official of the Social Security Administration who makes the reconsidered determination shall have had no prior involvement with the determination under appeal. They argued that the situation requires an official who is familiar with the case, rather than someone who is new and may not fully comprehend the specific claimant's plight. Others, while applauding the provision, suggested that it should be expanded to require that the decisionmaker be of equal or higher rank than the official who rendered the initial determination. Impartial review is an established principle in any appellate system and is considered necessary to ensure fairness and confidence in the system. It is believed the proposed rules adequately provide this ingredient of due process. Therefore, no change is being made in this section.

Several organizations objected to the provisions of § 416.1418 (now § 416.1420) dealing with appeals of initial determinations on applications involving medical issues. In such cases the reconsideration procedure is limited to a case review. While providing a conference for these appeals is not possible at present, because the agencies conducting these reviews lack the necessary field organization, the possibility of providing a conference in these cases is currently being studied and tested and, if it is determined that such a procedure is feasible, it will be implemented.

Several organizations commented on the reference in § 416.1419 (now § 416.1421) to the provision permitting a claimant to waive the right to advance notice and continued payments while his appeal is pending. The comments suggest that this provision is intended to raise to the level of regulation an existing policy not previously promulgated as proposed rules. In fact, this provision was promulgated in § 416.1336(d) of Subpart M with a Notice of Proposed Rule Making published on April 2, 1974, and has been in effect since that date. This section provides that in order to avoid a possible overpayment in the event of an unsuccessful appeal, the claimant may choose to waive his right to advance notice and continued payment while the appeal is being decided. Several organizations objected to this provision on the grounds that the waiver may not actually be exercised voluntarily; i.e., discussion of the possibility of incurring overpayments subject to recovery may tend to intimidate a claimant into waiving continued payment. The intent of this provision is not coercion. Rather, it is the obligation of the Social Security Administration to fully inform the claimant of the effects of any action on his claim. Once apprised of the ramifications, the decision to waive is the claimant's alone to make, and his decision will be honored.

Another comment was received with respect to §§ 416.1408, 416.1410 (now § 416.1409), and 416.1419 (now § 416.1421) which provide that appeals on determinations that disability has ceased due to medical improvement go directly to the statutory hearing without an intervening reconsideration step. The comment noted that there is no mention of a similar appeal route for cases of cessation of blindness due to medical improvement. It was intended that appeals of these two issues should be treated in the same manner and, in practice, this was done. However, in recognition of the fact that disability and blindness constitute distinct categories of eligibility under title XVI (unlike under title II), the above-noted sections are amended to specifically provide that appeals on cessation of blindness due to medical improvement also go directly to a hearing. In addition, §§ 416.1425, 416.1426, 416.1427, and 416.1483 (b) and (c) make reference to appeals of determinations concerning medical improvement and are similarly revised. Since it was always intended that appeals of determinations that blindness had ceased to be handled in the same way as disability cases, these changes do not represent a change in policy.

Sections 416.1425 and 416.1426 are amended to provide that hearing rights flow from certain revised initial and reconsidered determinations.

One organization in response to the notice published January 4, 1974, expressed concern that the proposed rules made no provision for (1) the claimant to review the record in case review reconsiderations, (2) a time limit within which the Social Security Administration must render a reconsidered determination, and (3) placing witnesses under oath.

With respect to the first point, § 416.1417(a) (now § 416.1417) was amended in the proposed rules published on January 29, 1975, to specifically provide for opportunity to review the evidence of record in case review reconsiderations. With respect to the second point, it is the Social Security Administration's goal to render determinations as soon as possible after reconsideration has been requested. This is reflected in the policy of scheduling conferences within 15 days after the request. To a large extent, the issuance of a determination depends upon when the claimant, who is primarily responsible for sustaining his case, furnishes the evidence required to make the determination. For this reason, no time limit is imposed for the rendition of reconsideration determinations.

Regarding the third point, there is no requirement that evidence of witnesses be taken under oath because due process does not require it. Further, personnel conducting reconsideration conferences have no authority to administer oaths. If any evidence is still at issue after the conference, it can be brought out at the time of the statutory hearing where evidence is taken under oath.

In addition to the changes made in response to the comments, some parts of the regulations were reorganized for purposes of emphasis. A new § 416.1411 was added providing for the dismissal of reconsideration requests which are not filed within the prescribed time limit. This section was inadvertently omitted when the regulations were first published with the Notice of Proposed Rule Making on January 4, 1974. It is being added now to provide procedures for disposing of late requests.

Accordingly, with these modifications the proposed rules are adopted as set forth below.

(Sections 1102 and 1631(d)(1) of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1476, 42 U.S.C. 1302, 1383 (d)(1)).

Effective Date. These regulations shall be effective October 9, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: June 19, 1975.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: September 30, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of the Federal Regulations is amended as follows:

1. In § 416.1336, paragraph (c) is revised to read as follows:

§ 416.1336 Notice of proposed adverse action affecting recipient's payment status.

* * * * *

(c) The written notice of intent to suspend, reduce, or terminate payments will allow 30 days from the date of receipt of the notice for the recipient to request the appropriate appellate review (see Subpart N of this part). If appeal is requested within 10 days of the individual's receipt of the notice, the payment shall be continued or reinstated at the previously established payment level (subject to the effects of intervening events on the payment which do not require advance notice as described in paragraph (a) of this section) until a decision on such appeal is issued, unless the individual specifically waives in writing his right to continuation of payment at the previously established level in accordance with paragraph (d) of this section. Where the request for appeal is filed more than 10 days after the notice is received but within the 30-day period specified in § 416.1410 or § 416.1426, there shall be no right to continuation or reinstatement of payment at the previously established level, unless good cause is established under the criteria specified in § 416.1474 for failure to appeal within 10 days of receipt of the notice.

2. Following § 416.1405, §§ 416.1408–416.1423 inclusive are added to read as follows:

Subpart N—Determinations, Reconsideration, Hearings, Appeals, and Judicial Review

§ 416.1408 Reconsideration; right to reconsideration.

With one exception, any party to an initial determination who is dissatisfied with such initial determination may request that the Social Security Administration reconsider such initial determination. Except as provided in § 416.1336, initial determinations on continuing eligibility involving cessation of blindness or disability due to medical improvement may only be appealed directly to the hearing as provided in § 416.1425. The Social Security Administration may also reconsider an initial determination if a written request for reconsideration is filed by an individual who was not a party to the initial determination, but who makes a showing in writing that he may be prejudiced by such determination.

§ 416.1409 Mandatory nature of reconsideration.

Reconsideration shall be the mandatory first step with respect to the appeal of an initial determination, except for appeals by parties who have initial determinations on continuing eligibility involving cessation of blindness or disability due to medical improvement which are appealed directly to the statutory hearing. There shall be no right to further appeal of an initial determination unless the party to such determination requests reconsideration within the time specified in § 416.1410.

§ 416.1410 Time and place of filing request.

The request for reconsideration shall be made in writing and filed at an office of the Social Security Administration within 30 days from the date of receipt of notice of the initial determination, unless such time is extended as specified in § 404.953 of this title. (See § 416.1336 (c) for the time period within which the request must be made for right to continuation or reinstatement of payment pending the reconsidered decision.) For purpose of effectuating administrative actions flowing from an initial determination, the party shall be presumed to have received the notice within 5 days from the date thereon, unless there is a reasonable showing to the contrary.

§ 416.1411 Dismissal of request.

A request for reconsideration shall be dismissed where the party has failed to file the request within the time specified in § 416.1410 and the time for filing such request has not been extended as provided in § 404.953 of this chapter. Written notice of the dismissal shall be given to the party or mailed to him at his last known address.

§ 416.1412 Parties to the reconsideration.

The parties to the reconsideration shall be the persons who were the parties to the initial determination and may also include a person who has shown in writing that he may be prejudiced by such determination as specified in § 416.1408.

§ 416.1413 Notice of reconsideration.

If the request for reconsideration is filed by a person other than the party to the initial determination, the Social Security Administration shall, before such reconsideration, mail a written notice to such party at his last known address, informing him that the initial determination is being reconsidered. In addition, the Social Security Administration shall give such party a reasonable opportunity to present such evidence and contentions as to fact or law he may desire relative to the determination.

§ 416.1414 Arrangement for conferences.

Upon receipt of a request for an informal or formal conference, (See §§ 416.1418 and 416.1419), the Social Security Administration shall set the date, time, and place of such conference to be held within 15 days from the date of the request, written notice of which, unless waived by a party shall be mailed to the parties at their last known addresses or given to them by personal service, not less than 10 days prior to such time (unless the party and the Social Security Administration agree to an earlier date). A later date may be set by the Social Security Administration, at its discretion or upon request of the parties, provided the Social Security Administration deems such delay necessary to ensure efficient and proper conduct of the conference. The conference shall be held at an office of the Social Security Administration, by telephone or in person, at the option of the party to the reconsideration. It may also be held in person elsewhere, when the party makes a showing that this is reasonably necessary in light of the circumstances.

§ 416.1415 Reconsidered determination.

The Social Security Administration shall, when a request for reconsideration has been filed, as specified in § 416.1410, reconsider the initial determination in question and the findings on which it was based in the manner described in § 416.1420 or § 416.1421, and upon the basis of the evidence considered in connection with the initial determination and whatever other evidence is submitted by the parties or is otherwise obtained shall make a reconsidered determination affirming, or revising, in whole or in part, the findings and determination in question. The official of the Social Security Administration who makes the reconsidered determination shall have had no prior involvement with the initial determination.

§ 416.1416 Reconsideration procedures.

The reconsideration procedures described in § 416.1417, § 416.1418, and § 416.1419 will be used dependent upon the category of appeal as specified in § 416.1420 and § 416.1421. The parties will be advised of their rights which may be exercised at the applicable proceeding. On the basis of a case review, informal conference, or formal conference, the Social Security Administration shall render a reconsidered determination as specified in § 416.1415.

§ 416.1417 Case review.

After the party or his representative is given opportunity to review the evidence of record and to present oral and written evidence to an official of the Social Security Administration, the case review shall consist of a thorough review of all evidence on record, including additional evidence submitted by the party or his representative or secured by the Social Security Administration. The official making the case review will render the reconsidered determination.

§ 416.1418 Informal conference.

The informal conference will consist of the procedure specified in § 416.1417 and additionally, will provide the party or his representative an opportunity to present witnesses. Also, a summary record of the proceedings shall be prepared and made a part of the case file. The official conducting the informal conference will render the reconsidered determination.

§ 416.1419 Formal conference.

The formal conference will consist of the procedure specified in § 416.1418 and, additionally, will provide the party or his representative an opportunity to request that the Social Security Administration subpoena adverse witnesses and relevant documents and provide for cross-examination of the adverse witnesses by the party or his representative. The official conducting the formal conference will render the reconsidered determination.

§ 416.1420 Reconsideration of initial determinations on applications.

(a) *Nonmedical issues.* When a request for reconsideration of initial determination on an application has been filed and the subject of the appeal is a nonmedical issue, the Social Security Administration shall offer the parties to the initial determination an opportunity for a case review or an informal conference (see § 416.1417 and § 416.1418). On the basis of such case review or informal conference, the Social Security Administration shall render a reconsidered determination as specified in § 416.1415.

(b) *Medical issues.* When a request for reconsideration of an initial determination on an application (including cases where payment was made on the basis of presumptive disability pending the initial determination (see §§ 416.951–416.954)) has been filed and the subject of the appeal is a medical issue, the

Social Security Administration shall offer the parties to the initial determination an opportunity for a case review (see § 416.1417). On the basis of such case review, the Social Security Administration shall render a reconsidered determination as specified in § 416.1415.

§ 416.1421 Appeals of initial determinations of continuing eligibility (post-eligibility claims).

(a) *Advance notice of adverse action required.* Section 416.1336 describes the conditions under which an individual shall have the right to advance notice of an initial determination that his payments are to be reduced, suspended, or terminated and to continuation of payment at the previously established level if he appeals such determination. In any case where it has been determined that the advance notice provisions of § 416.1336 apply (or would apply except that the individual has waived his right to such advance notice and continuation of payment in accordance with § 416.1336 (d)) and the individual appeals within 30 days from receipt of notice (or later, if the 30 day time period is extended as specified in § 416.1410 or § 416.1474), the appeal procedure shall be a case review, informal conference, or formal conference, at the individual's option, or, if cessation of blindness or disability due to medical improvement is the determination at issue, a hearing. (See § 416.1336 (c) for the time period within which the request must be made for right to continuation or reinstatement of payment pending the reconsidered decision.)

(b) *Advance notice of adverse action not required.* The conditions under which the Social Security Administration may effectuate adverse post-eligibility initial determinations involving reductions, suspensions, or terminations of benefits without advance notice to the parties to such initial determinations are described in § 416.1336(a). Upon receipt of a timely filed request for reconsideration of such initial determination, the Social Security Administration shall apply the same procedures as specified in § 416.1420.

§ 416.1422 Notice of reconsidered determination.

Written notice of the reconsidered determination shall be mailed to the parties at their last known addresses. The reconsidered determination shall state the basis therefor and inform the parties of their right to a hearing.

§ 416.1423 Effect of reconsidered determination.

The reconsidered determination shall be final and binding upon all the parties to the reconsideration unless a hearing is requested and a decision rendered or unless such determination is reopened and revised pursuant to § 416.1475 and § 416.1477.

3. In § 416.1425, paragraph (a) is revised to read as follows:

§ 416.1425 Right to hearing.

An individual has a right to a hearing about any matter designated in § 416.1403 if:

(a) The Social Security Administration has made:

(1) An initial determination and a reconsideration of the initial determination; *or*

(2) A reconsideration of a revised determination as provided in § 416.1483 (b); *or*

(3) A revised determination as provided in § 416.1483(c); or

(4) An initial determination that blindness or disability has ceased due to medical improvement; *and*

* * * * *

4. Section 416.1426 is revised to read as follows:

§ 416.1426 Time and place of filing request for hearing.

The request for hearing shall be in writing and filed with an office of the Social Security Administration, including a hearing office, or with the Appeals Council. The request for hearing must be filed within 30 days after the date of receipt of notice of the reconsidered determination or revised determination as provided in § 416.1483(c), *or* within 30 days after the date of receipt of notice of the initial determination that blindness or disability has ceased due to medical improvement. For purposes of this section, the date of receipt of notice shall be presumed to be 5 days after the date such notice is mailed, unless there is a reasonable showing to the contrary.

5. In § 416.1427, paragraph (a)(3) is revised to read as follows:

§ 416.1427 Request for hearing.

(a) * * *

(3) The reason(s) for disagreeing with the reconsidered or revised determination or the initial determination that blindness or disability has ceased due to medical improvement;

* * * * *

6. In § 416.1483, paragraphs (b) and (c) are revised to read as follows:

§ 416.1483 Notice of revision.

* * * * *

(b) Where an initial or reconsidered determination is revised and such revised determination involves an adverse action, other than on blindness or disability due to medical factors which requires advance notice and continuation of payments in accordance with § 416.1336, the notice of revision shall inform the parties of their right to reconsideration as provided in § 416.1408 and § 416.1421(a).

(c) Where an initial or reconsidered determination is revised and such revised determination does not involve an adverse action which requires advance notice and continuation of payments, or such revised determination involves adverse action on blindness or disability due to medical factors which requires advance notice and continuation of payments, the notice of revision shall inform the parties of their right to a hearing as provided in § 416.1425.

* * * * *

[FR Doc.75-27154 Filed 10-8-75;8:45 am]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

SUBCHAPTER M—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. ATF-19; Ref. No. 279]

PART 245—BEER

Tax Offset Limitation for Beer Returned to Firearms

On June 27, 1975 a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 27240) proposing an amendment to 27 CFR 245.116. The proposed amendment would deny use of a tax offset or deduction for beer returned to the brewery from which removed for consumption or sale if the brewer was indemnified by insurance or otherwise in respect of the tax. The amendment was specifically intended to prevent brewers from taking an offset or deduction when they have not issued credit for the returned beer in an amount at least equal to the tax on the beer.

Interested persons were given 30 days in which to comment on the proposed amendment. No comments have been received; therefore, the amendment is adopted without change, as set forth below.

Effective date. This amendment of Part 245 shall become effective on December 1, 1975.

Signed: September 2, 1975.

REX D. DAVIS,
Director.

Approved: October 2, 1975.

DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

Section 245.116 is revised as follows:

§ 245.116 Time of tax determination and payment.

The tax on beer shall be determined at the time of its removal for consumption or sale, and shall be paid by return as provided in this part. In determining the amount of tax due on beer so removed on any business day, the quantity of beer returned to the same brewery from which removed for consumption or sale shall be taken as an offset against or deduction from the total quantity of beer removed for consumption or sale from that brewery on the business day that such beer is returned. No offset or deduction for returned beer will be allowed if the brewer was indemnified by insurance or otherwise in respect of the tax.

(72 Stat. 1334, 1335, as amended (26 U.S.C. 5054, 5056, 5061))

[FR Doc.75-27243 Filed 10-8-75;8:45 am]

Title 29—Labor

CHAPTER XXV—OFFICE OF EMPLOYEE BENEFITS SECURITY

SUBCHAPTER F—FIDUCIARY RESPONSIBILITY UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2555—INTERPRETIVE BULLETINS RELATING TO FIDUCIARY RESPONSIBILITY

Interpretive Release

In the matter of § 2555.75-8—Questions and answers relating to fiduciary responsibility under the Employee Retirement Income Security Act of 1974 (the Act). The Department of Labor today issued questions and answers relating to certain aspects of fiduciary responsibility under the Act, thereby supplementing ERISA IB 75-5 (29 CFR 2555.75-5) which was issued on June 24, 1975, and published in the FEDERAL REGISTER on July 28, 1975 (40 FR 31598).

Pending the issuance of regulations or other guidelines, persons may rely on the answers to these questions in order to resolve the issues that are specifically considered. No inferences should be drawn regarding issues not raised which may be suggested by a particular question and answer or as to why certain questions, and not others, are included. Furthermore, in applying the questions and answers, the effect of subsequent legislation, regulations, court decisions, and interpretive bulletins must be considered. To the extent that plans utilize or rely on these answers and the requirements of regulations subsequently adopted vary from the answers relied on, such plans may have to be amended.

An index of the questions and answers, relating them to the appropriate sections of the Act, is also provided.

INDEX

Key to question prefixes: D—refers to definitions; FR—refers to fiduciary responsibility.

Sec. No.:	*Question No.*
3(21)(A)	D-2, D-3, D-4, D-5.
3(38)	FR-15.
402(c)(1)	FR-12.
402(c)(2)	FR-15.
402(c)(3)	FR-15.
403(a)(2)	FR-15.
404(a)(1)(B)	FR-11, FR-17.
405(a)	FR-13, FR-14, FR-16.
405(c)(1)	FR-12, FR-15.
405(c)(2)	D-4, FR-13, FR-14, FR-16.
412	D-2.

NOTE: Questions D-2, D-3, D-4, and D-5 relate to not only section 3(21)(A) of Title I of the Act, but also section 4975(e)(3) of the Internal Revenue Code (section 2003 of the Act). The Internal Revenue Service has indicated its concurrence with the answers to these questions.

D-2 Q: Are persons who have no power to make any decisions as to plan policy, interpretations, practices or procedures, but who perform the following administrative functions for an employee benefit plan, within a framework of policies, interpretations, rules, practices and procedures made by other persons, fiduciaries with respect to the plan:

(1) Application of rules determining eligibility for participation or benefits;

(2) Calculation of services and compensation credits for benefits;

(3) Preparation of employee communications material;

(4) Maintenance of participants' service and employment records;

(5) Preparation of reports required by government agencies;

(6) Calculation of benefits;

(7) Orientation of new participants and advising participants of their rights and options under the plan;

(8) Collection of contributions and application of contributions as provided in the plan;

(9) Preparation of reports concerning participants' benefits;

(10) Processing of claims; and

(11) Making recommendations to others for decisions with respect to plan administration?

A: No. Only persons who perform one or more of the functions described in section 3(21)(A) of the Act with respect to an employee benefit plan are fiduciaries. Therefore, a person who performs purely ministerial functions such as the types described above for an employee benefit plan within a framework of policies, interpretations, rules, practices and procedures made by other persons is not a fiduciary because such person does not have discretionary authority or discretionary control respecting management of the plan, does not exercise any authority or control respecting management or disposition of the assets of the plan, and does not render investment advice with respect to any money or other property of the plan and has no authority or responsibility to do so.

However, although such a person may not be a plan fiduciary, he may be subject to the bonding requirements contained in section 412 of the Act if he handles funds or other property of the plan within the meaning of applicable regulations.

The Internal Revenue Service notes that such persons would not be considered plan fiduciaries within the meaning of section 4975(e)(3) of the Internal Revenue Code of 1954.

D-3 Q: Does a person automatically become a fiduciary with respect to a plan by reason of holding certain positions in the administration of such plan?

A: Some offices or positions of an employee benefit plan by their very nature require persons who hold them to perform one or more of the functions described in section 3(21)(A) of the Act. For example, a plan administrator or a trustee of a plan must, by the very nature of his position, have "discretionary authority or discretionary responsibility in the administration" of the plan within the meaning of section 3(21)(A)(iii) of the Act. Persons who hold such positions will therefore be fiduciaries.

Other offices and positions should be examined to determine whether they involve the performance of any of the functions described in section 3(21)(A) of the Act. For example, a plan might designate as a "benefit supervisor" a plan employee whose sole function is to calculate the amount of benefits to which each plan participant is entitled in accordance with a mathematical formula contained in the written instrument pursuant to which the plan is maintained. The benefit supervisor, after calculating the benefits, would then inform the plan administrator of the results of his calculations, and the plan administrator would authorize the payment of benefits to a particular plan participant. The benefit supervisor does not perform any of the functions described in section 3(21)(A) of the Act and is not, therefore, a plan fiduciary. However, the plan might designate as a "benefit supervisor" a plan employee who has the final authority to authorize or disallow benefit payments in cases where a dispute exists as to the interpretation of plan provisions relating to eligibility for benefits. Under these circumstances, the benefit supervisor would be a fiduciary within the meaning of section 3(21)(A) of the Act.

The Internal Revenue Service notes that it would reach the same answer to this question under section 4975(e)(3) of the Internal Revenue Code of 1954.

D-4 Q: In the case of a plan established and maintained by an employer, are members of the board of directors of the employer fiduciaries with respect to the plan?

A: Members of the board of directors of an employer which maintains an employee benefit plan will be fiduciaries only to the extent that they have responsibility for the functions described in section 3(21)(A) of the Act. For example, the board of directors may be responsible for the selection and retention of plan fiduciaries. In such a case, members of the board of directors exercise "discretionary authority or discretionary control respecting management of such plan" and are, therefore, fiduciaries with respect to the plan. However, their responsibility, and, consequently, their liability, is limited to the selection and retention of fiduciaries (apart from co-fiduciary liability arising under circumstances described in section 405(a) of the Act). In addition, if the directors are made named fiduciaries of the plan, their liability may be limited pursuant to a procedure provided for in the plan instrument for the allocation of fiduciary responsibilities among named fiduciaries or for the designation of persons other than named fiduciaries to carry out fiduciary responsibilities, as provided in section 405(c)(2).

The Internal Revenue Service notes that it would reach the same answer to this question under section 4975(e)(3) of the Internal Revenue Code of 1954.

D-5 Q: Is an officer or employee of an employer or employee organization which sponsors an employee benefit plan a fiduciary with respect to the plan solely by reason of holding such office or employment if he or she performs none of the functions described in section 3(21)(A) of the Act?

A: No, for the reasons stated in response to question D-2.

The Internal Revenue Service notes that it would reach the same answer to this question under section 4975(e)(3) of the Internal Revenue Code of 1954.

FR-11 Q: In discharging fiduciary responsibilities, may a fiduciary with respect to a plan rely on information, data, statistics or analyses provided by other persons who perform purely ministerial functions for such plan, such as those persons described in D-2 above?

A: A plan fiduciary may rely on information, data, statistics or analyses furnished by persons performing ministerial functions for the plan, provided that he has exercised prudence in the selection and retention of such persons. The plan fiduciary will be deemed to have acted prudently in such selection and retention if, in the exercise of ordinary care in such situation, he has no reason to doubt the competence, integrity or responsibility of such persons.

FR-12 Q: How many fiduciaries must an employee benefit plan have?

A: There is no required number of fiduciaries that a plan must have. Each plan must, of course, have at least one named fiduciary who serves as plan administrator and, if plan assets are held in trust, the plan must have at least one trustee. If these requirements are met, there is no limit on the number of fiduciaries a plan may have. A plan may have as few or as many fiduciaries as are necessary for its operation and administration. Under section 402(c)(1) of the Act, if

the plan so provides, any person or group of persons may serve in more than one fiduciary capacity, including serving both as trustee and administrator. Conversely, fiduciary responsibilities not involving management and control of plan assets may, under section 405(c)(1) of the Act, be allocated among named fiduciaries and named fiduciaries may designate persons other than named fiduciaries to carry out such fiduciary responsibilities, if the plan instrument expressly provides procedures for such allocation or designation.

FR-13 Q: If the named fiduciaries of an employee benefit plan allocate their fiduciary responsibilities among themselves in accordance with a procedure set forth in the plan for the allocation of responsibilities for operation and administration of the plan, to what extent will a named fiduciary be relieved of liability for acts and omissions of other named fiduciaries in carrying out fiduciary responsibilities allocated to them?

A: If named fiduciaries of a plan allocate responsibilities in accordance with a procedure for such allocation set forth in the plan, a named fiduciary will not be liable for acts and omissions of other named fiduciaries in carrying out fiduciary responsibilities which have been allocated to them, except as provided in section 405(a) of the Act, relating to the general rules of co-fiduciary responsibility, and section 405(c)(2)(A) of the Act, relating in relevant part to standards for establishment and implementation of allocation procedures.

However, if the instrument under which the plan is maintained does not provide for a procedure for the allocation of fiduciary responsibilities among named fiduciaries, any allocation which the named fiduciaries may make among themselves will be ineffective to relieve a named fiduciary from responsibility or liability for the performance of fiduciary responsibilities allocated to other named fiduciaries.

FR-14 Q: If the named fiduciaries of an employee benefit plan designate a person who is not a named fiduciary to carry out fiduciary responsibilities, to what extent will the named fiduciaries be relieved of liability for the acts and omissions of such person in the performance of his duties?

A: If the instrument under which the plan is maintained provides for a procedure under which a named fiduciary may designate persons who are not named fiduciaries to carry out fiduciary responsibilities, named fiduciaries of the plan will not be liable for acts and omissions of a person who is not a named fiduciary in carrying out the fiduciary responsibilities which such person has been designated to carry out, except as provided in section 405(a) of the Act, relating to the general rules of co-fiduciary liability, and section 405(c)(2)(A) of the Act, relating in relevant part to the designation of persons to carry out fiduciary responsibilities.

However, if the instrument under which the plan is maintained does not provide for a procedure for the designation of persons who are not named fiduciaries to carry out fiduciary responsibilities, then any such designation which the named fiduciaries may make will not relieve the named fiduciaries from responsibility or liability for the acts and omissions of the persons so designated.

FR-15 Q: May a named fiduciary delegate responsibility for management and control of plan assets to anyone other than a person who is an investment manager as defined in section 3(38) of the Act so as to be relieved of liability for the acts and omissions of the person to whom such responsibility is delegated?

A: No. Section 405(c)(1) does not allow named fiduciaries to delegate to others authority or discretion to manage or control plan assets. However, under the terms of sections 403(a)(2) and 402(c)(3) of the Act, such authority and discretion may be delegated to persons who are investment managers as defined in section 3(38) of the Act. Further, under section 402(c)(2) of the Act, if the plan so provides, a named fiduciary may employ other persons to render advice to the named fiduciary to assist the named fiduciary in carrying out his investment responsibilities under the plan.

FR-16 Q: Is a fiduciary who is not a named fiduciary with respect to an employee benefit plan personally liable for all phases of the management and administration of the plan?

A: A fiduciary with respect to the plan who is not a named fiduciary is a fiduciary only to the extent that he or she performs one or more of the functions described in section 3(21)(A) of the Act. The personal liability of a fiduciary who is not a named fiduciary is generally limited to the fiduciary functions, which he or she performs with respect to the plan. With respect to the extent of liability of a named fiduciary of a plan where duties are properly allocated among named fiduciaries or where named fiduciaries properly designate other persons to carry out certain fiduciary duties, see question FR-13 and FR-14.

In addition, any fiduciary may become liable for breaches of fiduciary responsibility committed by another fiduciary of the same plan under circumstances giving rise to co-fiduciary liability, as provided in section 405(a) of the Act.

FR-17 Q: What are the ongoing responsibilities of a fiduciary who has appointed trustees or other fiduciaries with respect to these appointments?

A: At reasonable intervals the performance of trustees and other fiduciaries should be reviewed by the appointing fiduciary in such manner as may be reasonably expected to ensure that their performance has been in compliance with the terms of the plan and statutory standards, and satisfies the needs of the plan. No single procedure will be appropriate in all cases; the procedure adopted may vary in accordance with the nature of the plan and other facts and circumstances relevant to the choice of the procedure.

Signed at Washington, D.C. this 3rd day of October 1975.

JAMES D. HUTCHINSON,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc.75-27156 Filed 10-6-75;1:12 pm]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

PART 210—FEDERAL RECURRING PAYMENTS THROUGH FINANCIAL ORGANIZATIONS BY MEANS OTHER THAN BY CHECK

Payment to Recipients

On April 14, 1975, there was published in the FEDERAL REGISTER (40 FR 16669), a notice of proposed rulemaking to amend Title 31 of the Code of Federal Regulations by the addition of a new Part 210 to govern the making of recurring payments by the Federal Government to recipients by means other than by check. This Part would prescribe a new method for making payments involving the preparation by the Government of magnetic tapes reflecting the necessary data to accomplish payment to recipients who have chosen to be paid by credit to their accounts in financial organizations. Delivery of the data by the Government to the Federal Reserve Bank would constitute an issuance by the Government of orders for the payment of money which would be made available by the Federal Reserve Banks, using Federal Reserve distribution systems, to those financial organizations which have been designated by recipients and which have agreed to participate in this system and to accept payments for the recipients. Federal Reserve Banks would make the dollar amounts of such orders available to the financial organizations which would in turn credit the funds to the recipients' accounts on the books of the financial organizations.

Participation in this program of payments made through financial organizations rather than directly to recipients would be voluntary for recipients and financial organizations, and as applied to recipients and financial organizations would be based on the completion by each of its part of a Standard Authorization Form. However, after execution of such Form, the method of payments, whether by check pursuant to Parts 209[1] and 240 of this title or by means other than check pursuant to this Part, is optional with the Government and the financial organization. The option of payment by Government check directly to recipients would remain with recipients.

Interested parties were given 60 days from the date of publication of the notice to comment on the proposed regulation. Numerous comments were received both during and after the notice period from trade associations representing the financial community, individual financial organizations, interested Federal agencies, and representatives of the Federal Reserve Board and the Federal Reserve Banks. The Treasury Department considered all of the issues raised by these comments, and, where appropriate, modified the proposed regulations in order to accommodate suggestions made in those comments.

The principal differences between the final regulation and the proposed regulation are as follows:

1. The definition of "Recurring payment" in proposed § 210.2(h) was amended by the addition of the parenthetical phrase "(or allotment therefrom)" after the phrase "or other payment" to make clear that an allotment from a "recurring payment" is separate and distinct from the payment from which it is deducted and is itself a recurring payment.

2. The definition of "Standard Authorization Form" in proposed § 210.2(j) was

[1] The Department of the Treasury will shortly publish a notice of proposed rulemaking to amend Part 209, to provide conformity and consistency with the new Part 210.

amended to provide that only the Treasury Department, as opposed to any program agency, can prescribe a "Standard Authorization Form."

3. Proposed § 210.4(h) provided that any change in the title of an account would terminate a Standard Authorization Form in which that account was designated. Under the final § 210.4(h), only a change in the title of an account which would cause a program agency to review the deposit of a recurring payment to that account terminates the Standard Authorization Form. Further, in situations where the Standard Authorization Form is terminated by a change in the account title, a financial organization can continue to credit payments to that account after a new Standard Authorization Form has been executed (§ 210.7(f)(i)).

4. Proposed § 210.6(c), which provided that the Government could recall a credit payment at any time prior to the payment date, was eliminated from the final regulations as being, in some cases, unduly burdensome to financial organizations. The elimination of this section does not preclude the Government from notifying a financial organization to withhold a credit payment nor relieve the financial organization of the duty of making a reasonable effort to comply with such notice.

5. Proposed § 210.7 was modified, *inter alia*, with the substitution of a new subsection (e). The requirement in the proposed subsection (e)—that the financial organization notify the program agency of "any event actually known by it" which would preclude crediting of an account—was eliminated since it placed the duty of making difficult factual decisions on individual financial organizations. It is believed that § 210.7(f) will provide adequate notice to the Government in such situations. The new subsection (e) was added to more clearly specify what information in the credit payment the financial organization can rely on, and the procedures to be followed if financial organizations are unable to credit the proper account based on this information.

6. Proposed § 210.7(f)(iii) and (iv) were modified, the former since proposed § 210.7(e) was eliminated, and the latter since the only notice of termination to the financial organizations in most cases will be the failure to receive an expected credit payment.

7. Proposed § 210.9 was modified by the addition of a sentence defining the term "knowledge" used in § 210.9(a)(ii). Other modifications were made in this section to clarify the financial organization's (1) duty to recover withdrawn credit payments and (2) responsibilities with respect to funds still in the account.

8. In § 210.10(b) there was added an indemnification of the financial organization by the United States up to the amount of the credit payment in situations where the financial organization is rendered liable because it acted on incorrect information in a credit payment.

Other, less significant changes were made in various other sections of the Part.

Accordingly, Subchapter A, Chapter II, Title 31 of the Code of Federal Regulations is, as of January 1, 1976, amended by the addition of a new Part, designated Part 210, to read as follows:

Sec.
210.1 Scope of regulations.
210.2 Definitions.
210.3 Federal Reserve Banks.
210.4 Recipients.
210.5 Program agencies.
210.6 The Government.
210.7 Financial organizations.
210.8 Timeliness of action.
210.9 Death or legal incapacity of recipients or death of beneficiaries.
210.10 Liability of, and acquittance to, the United States.

AUTHORITY: 5 U.S.C. 301; 12 U.S.C. 391; Title 31, U.S.C., and other provisions of law.

§ 210.1 Scope of regulations.

This Part governs the making of recurring payments by the Government, by means other than by check, through Federal Reserve Banks and financial organizations to recipients maintaining accounts at such financial organizations.

§ 210.2 Definitions.

As used in this Part, unless the context otherwise requires:

(a) "Federal Reserve Bank" means any Head Office or Branch Office of any such Bank, acting as Fiscal Agent of the United States.

(b) "Financial organization" means any bank, savings bank, savings and loan association or similar institution, or Federal or State chartered credit union, which was affirmatively indicted to a Federal Reserve Bank its preparedness to receive credit payments under this Part.

(c) "Government" means the Government of the United States, the Department of the Treasury, a Federal disbursing office, and a program agency which has made arrangements with the Department of the Treasury to make payments under this Part, or any of them.

(d) "Credit payment" means an order for the payment of money issued by the Government under this Part to pay a recurring payment. A credit payment may be contained on (1) a letter, memorandum, telegram, computer print out or similar writing, or (2) any form of communication other than voice, which is registered upon magnetic tape, disc or any other medium designed to capture and contain in durable form conventional signals used for the electronic communication of messages.

(e) "Payment date" means the date specified for a credit payment. Such date is the date on which the funds specified in the credit payment are to be available for withdrawal from the recipient's account with the financial organization specified by such recipient, and on which such funds are to be made available to the financial organization by the Federal Reserve Bank with which the financial organization maintains or utilizes an account. If the payment date is not a business day for the financial organization receiving a credit payment, or for the Federal Reserve Bank from which it received such payment, then the next succeeding business day for both shall be deemed to be the payment date.

(f) "Recipient" means a person entitled to receive recurring payments from the Government.

(g) "Beneficiary" means a person other than a recipient who is entitled to receive the benefit of all or part of a recurring payment from the Government.

(h) "Recurring payment" means any Federal Government benefit, annuity, or other payment (or allotment therefrom), including any payment of salary, wages, or pay and allowances, which is made at regular intervals.

(i) "Program agency" means any agency which makes recurring payments, and includes any department, agency, independent establishment, board, office, commission or other establishment in the executive, legislative, or judicial branch of the Government, any wholly-owned or controlled Government corporation, and the municipal government of the District of Columbia.

(j) "Standard Authorization Form" means the authorization form prescribed by the Department of the Treasury for the recurring payment for execution by (1) a recipient, and (2) a financial organization maintaining an account for such recipient.

§ 210.3 Federal Reserve Banks.

(a) Each Federal Reserve Bank as Fiscal Agent of the United States shall receive credit payments from the Government and shall make available and pay such credit payments to financial organizations, and shall otherwise carry out the procedures and conduct the operations contemplated under this Part. Each Federal Reserve Bank may issue operating circulars (sometimes referred to as operating letters or bulletins) not inconsistent with this Part, governing the details of its credit payment handling operating and containing such provisions as are required and permitted by this Part.

(b) The Government by its action of issuing and sending any credit payment contained in the media specified in § 210.2(d) hereof shall be deemed to authorize the Federal Reserve Banks (1) to pay such credit payment to the debit of the general account of the United States Treasury on the payment date, and (2) to handle and act upon such credit payment.

(c) Upon receipt of a credit payment, a Federal Reserve Bank shall, if the credit payment is directed to a financial organization which maintains or utilizes an account on the books of another Federal Reserve Bank, forward such credit payment to such other Federal Reserve Bank. The Federal Reserve Bank on whose books the financial organization or its designated correspondent maintains an account shall deliver or make available such credit payment to such financial organization not later than the close of business for such financial organization on the business day prior to

the payment date on the medium as agreed to by such Federal Reserve Bank and financial organization.

(d) A financial organization by its action in maintaining or utilizing an account at a Federal Reserve Bank shall be deemed to authorize that Federal Reserve Bank to credit the amount of the credit payment to the account on its books of such financial organization or its designated correspondent maintaining an account with the Federal Reserve Bank.

(e) A Federal Reserve Bank receiving a credit payment from the Government shall make the amount of such credit payment available for withdrawal from the account on its books, referred to in § 210.3(d) above, at the opening of business on the payment date.

(f) Each Federal Reserve Bank shall be responsible only to the Department of the Treasury and shall not be liable to any other party for any loss resulting from such Federal Reserve Bank's actions under this Part.

§ 210.4 Recipients.

(a) In order for a recipient to receive a recurring payment by means of direct deposit of the amounts of credit payments under this Part, at a financial organization of the recipient's choosing and to an account the title of which includes the recipient's name, the recipient shall execute the applicable portion and deliver to such financial organization the Standard Authorization Form prescribed by the Department of the Treasury for such recurring payments. A recipient shall be responsible for any inaccuracy in the data entered by such recipient on such Standard Authorization Form.

(b) In executing a Standard Authorization Form, a recipient (1) designates the financial organization and the account on the books of such financial organization to which the amounts of the credit payments shall be credited, (2) is deemed to agree to the provisions of this Part, and (3) authorizes the program agency to terminate any previously executed Standard Authorization Form or any other inconsistent payment instructions applicable to the relevant recurring payment.

(c) A recipient shall execute a separate Standard Authorization Form for each type of recurring payment made hereunder. If a recipient wishes to direct a recurring payment to a different account or financial organization, the recipient shall execute a new Standard Authorization Form.

(d) A recipient may at any time authorize the program agency to terminate a Standard Authorization Form by notifying such program agency.

(e) The death or legal incapacity of a recipient or the death of a beneficiary shall terminate a Standard Authorization Form issued with respect to a recurring payment.

(f) A recipient of a recurring payment may request only that a credit payment be in the full amount of such recurring payment and be credited to one account on the books of a financial organization. Except as authorized by law or other regulations, the procedures set forth in this Part shall not be used for effectuating an assignment of a recurring payment.

(g) A recipient may be required by local law or by financial organization procedures to have the execution of a Standard Authorization Form notarized.

(h) A change in the title of an account on the books of a financial organization which (1) removes the name of the recipient, (2) removes or adds the name of a beneficiary, or (3) alters the interest of the beneficiary in the account shall terminate any Standard Authorization Form in which that account is designated, and shall require the execution of a new Standard Authorization Form before further credit payments may be credited to that account.

§ 210.5 Program agencies.

The program agency will maintain the data necessary for authorization of credit payments and shall make such data available for the issuance of such credit payments in sufficient time for the Government, in performing its disbursing function, to carry out its responsibilities under this Part. Such data shall be certified by the program agency's certifying officer in accordance with 31 U.S.C. 82c.

§ 210.6 The Government.

(a) In performance of its disbursing functions, the Government will, in accordance with the provisions of this Part, issue and direct credit payments to the Federal Reserve Bank on whose books the financial organization named therein maintains or utilizes an account in sufficient time for the Federal Reserve Bank to carry out its responsibilities under this Part.

(b) Procedural instructions for the guidance of the Government and Federal Reserve Banks in the implementation of these regulations will be issued by the Department of the Treasury.

§ 210.7 Financial organizations.

(a) A financial organization's execution of a Standard Authorization Form shall constitute its agreement to the terms of this Part with respect to each credit payment received by it pursuant to such Standard Authorization Form. Regardless of whether it has executed a Standard Authorization Form, a financial organization's acceptance and handling of a credit payment issued pursuant to this Part shall constitute its agreement to the provisions of this Part.

(b) A financial organization in executing a Standard Authorization Form shall be responsible for (1) the completeness and accuracy of the data entered by it in its portion of the Standard Authorization Form, and (2) verifying that the depositor account number entered by the recipient on the Standard Authorization Form corresponds to an account bearing the name of the recipient.

(c) A financial organization wishing to terminate the agreement evidenced by a Standard Authorization Form shall do so by giving written notice to the recipient. Such termination shall become effective thirty days after the financial organization has sent such notice to the recipient.

(d) A financial organization receiving a credit payment shall credit the amount of such credit payment to the designated account of the recipient on its books, and it shall make such amount available for withdrawal or other use by the recipient not later than the opening of business on the payment date. If the credit payments or any related documentation received by the financial organization from a Federal Reserve Bank do not balance, are incomplete, are clearly erroneous on their face, or are incapable of being processed, the financial organization, after assuring itself that neither it nor any of its agents is responsible, shall immediately notify such Federal Reserve Bank in order that it may deliver corrected material to such financial organization.

(e) A financial organization receiving a credit payment shall credit the amount of such credit payment to the account indicated by the depositor account number information specified in the credit payment. If the financial organization is unable to credit the account indicated in the credit payment based upon the depositor account number information specified, and is further unable to credit the account designated by the recipient based upon other information contained in the credit payment, it shall promptly return the credit payment to the Federal Reserve Bank with a statement identifying the reason therefor.

(f) A financial organization shall promptly return to the Government through the Federal Reserve Bank any relevant credit payment received by such financial organization:

(1) After termination of a Standard Authorization Form pursuant to § 210.4 (h) and before the execution of a new Standard Authorization Form;

(2) After termination of a Standard Authorization Form pursuant to § 210.7 (c) has become effective;

(3) After the death or legal incapacity of the recipient or death of the beneficiary; or

(4) After the closing of the recipient's account.

(g) A financial organization to which a credit payment is sent under this Part does not thereby become a Government depositary and shall not advertise itself as one because of that fact.

(h) Each financial organization by its action of handling a credit payment shall be deemed to warrant to the Government that it has handled such credit payment in accordance with this Part. In addition to the liability which may be imposed pursuant to § 210.9, if the foregoing warranty is breached, the financial organization shall indemnify the Government for any loss sustained by the Government, but only to the extent that such loss was the result of such breach. Except as provided in this section, and § 210.9, a

financial organization shall not be liable under this Part to any party for its handling of a credit payment.

§ 210.8 Timeliness of action.

If, becaue of circumstances beyond its control, the Government, a Federal Reserve Bank, or a financial organization shall be delayed beyond the applicable time limits (including the payment date) provided by this Part, the operating circuliars of the Federal Reserve Banks, or applicable law in taking any action with respect to a credit payment, the time within which such action shall be completed shall be extended for such time after the cause of the delay ceases to operate as shall be necessary to take or complete the action, *provided* the Government, the Federal Reserve Bank, or the financial organization exercises such diligence as the circumstances require.

§ 210.9 Death or legal incapacity of recipients or death of beneficiaries.

(a) When, because of the death or legal incapacity of a recipient or the death of a beneficiary, one or more credit payments should have been returned to the Government, a financial organization shall be accountable to the Government for the total amount of any such credit payments: *Provided, however,* That if:

(1) Such amount, or any part thereof, is not available in the recipient's account; and

(2) The financial organization did not have, at the time of the deposit and withdrawal, knowledge of the recipient's death or legal incapacity, or the beneficiary's death, and

(3) The financial organization has made every practicable administrative effort to recover the amount which is not available in the recipient's account;

the financial organization shall be accountable only for:

(i) The amount available in the recipient's account and the amount recovered by it, plus

(ii) The amount not recovered by it, or an amount equal to the credit payments received by it within 45 days after the death or legal incapacity of the recipient or the death of the beneficiary, whichever is the lesser amount.

(b) A financial organization shall be deemed to have knowledge of the death or legal incapacity of a recipient or the death of a beneficiary when such information is brought to the attention of an individual in the financial organization who handles credit payments, or when such information would have been brought to such individual's attention if the financial organization had exercised due diligence. The financial organization will be considered to have exercised due diligence only if it maintains procedures for immediately communicating such information to the appropriate individuals, and complies with such procedures.

§ 210.10 Liability of, and acquittance to, the United States.

(a) The United States shall be liable to a recipient for the failure to credit the proper amount of a recurring payment to the appropriate account of the recipient as required by this Part. Such liability shall be limited to the amount of such recurring payment.

(b) The United States shall be liable to the financial organization, up to the amount of the credit payment, for a loss sustained by the financial organization as a result of its crediting the amount of the credit payment to the account specified in the credit payment, if the financial organization has handled such credit payment in accordance with this Part. The foregoing does not extend to credit payments received by the financial organization after the death or legal incapacity of the recipient or death of the beneficiary, in which event § 210.9 shall govern.

(c) The crediting of the amount of a credit payment to the appropriate account of a recipient on the books of the appropriate financial organization shall constitute a full acquittance to the United States for the amount of such payment.

INFLATION IMPACT CERTIFICATION

Pursuant to the provisions of OMB Circular No. A-107, dated January 28, 1975, it is hereby certified that upon due consideration and application of the Treasury Identification Criteria[1] the proposed regulation entitled "Federal Recurring Payments Through Financial Organizations By Means Other Than By Check", has not been determined to be a major proposal requiring an evaluation of its inflationary impact and that such an evaluation has not been performed.

Dated: October 3, 1975.

[SEAL] DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.75-27153 Filed 10-8-75;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

Cooper River and Tributaries, Charleston, South Carolina

On 17 July 1975, the Department of the Army, acting through the Chief of Engineers, published proposed regulations to govern the use and navigation of restricted areas in the Cooper River and its tributaries at Charleston, South Carolina.

The comment period for this regulation expired on 18 August 1975. There were no objections to the proposed restricted areas. However, the coordinates published in the FEDERAL REGISTER under paragraph (a) (3) (i) in 33 CFR 207.164b were incorrect, and have been corrected in this final regulation.

The Department of the Army, acting through the Chief of Engineers is publishing the final regulations as follows:

Section 207.164b(a) (3) is revised.

§ 207.164b Cooper River and tributaries at Charleston, South Carolina; restricted areas.

(a) *The Areas* * * *

(3) That portion of Cooper River extending from the mouth of Goose Creek to Red Bank Landing, a distance of approximately 4.8 miles and the tributaries to Cooper River within the area inclosed by the following arcs and their intersections:

(i) Radius=8255' center of Radius Latitude 32°55'45" N., Longitude 79°56' 23" W.

(ii) Radius=3790' center of Radius Latitude 32°55'00" N., Longitude 79°55' 41" W.

(iii) Radius=8255' center of Radius Latitude 32°55'41" N., Longitude 79°56' 15" W.

(iv) Radius=8255' center of Radius Latitude 32°56'09" N., Longitude 79°56' 19" W.

* * * * *

Dated: September 19, 1975.

Approved:

MARTIN R. HOFFMANN,
Secretary of the Army.

[FR Doc.75-27157 Filed 10-8-75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 441-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts; Correction

Section 52.1124, Review of new sources and modifications, was promulgated in the February 25, 1974, FEDERAL REGISTER (39 FR 7281), prior to the revocation of the then existing section 52.1124, Control Strategy: Nitrogen dioxide. As a result, the revocation of § 52.114 which appeared May 8, 1974 (39 FR 16346), applied to both sections. This action was not intended to revoke § 52.1124, Review of new sources and modifications. The resulting deficiency is corrected by repromulgating § 52.1124, Review of new sources and modifications, as it appeared in the February 25, 1974, FEDERAL REGISTER (39 FR 7281).

Dated: Ocotber 3, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.75-27235 Filed 10-8-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

REVISION OF CHAPTER 9 TO REFLECT THE ENERGY REORGANIZATION ACT OF 1974

Correction

In FR Doc 75-26202 appearing at page 46802 in the issue for Tuesday, October 7, 1975, in the preamble, third col-

[1] As contained in the "Proposed Treasury Identification Criteria: Inflation Impact Statements, Revision of 8/15/75."

umn, the eighteenth line should read, "3, 5, 6, 8, 9, 10, and 11 are still in full force" and the effective date should read, "These procurement regulations are effective October 7, 1975."

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5543; Arizona 6351]

ARIZONA

Modification of Stock Driveway Withdrawal

By virtue of the authority contained in section 10 of the Act of December 29, 1916, 39 Stat. 865; 43 U.S.C. 300 (1970), it is ordered as follows:

The departmental order of March 18, 1918, creating Stock Driveway Withdrawal No. 10 (Arizona No. 1), is hereby modified to the extent necessary to permit the location of a right-of-way under sec. 2477, U.S. Revised Statutes, 43 U.S.C. 932 (1970), by Navajo County Board of Supervisors, on the following described lands, as delineated on a map numbered "70002-006" on file with the Bureau of Land Management in Arizona 6351, for construction of a public road.

GILA AND SALT RIVER MERIDIAN

T. 11 N., R. 22 E.,
Sec. 12, NW¼NW¼NE¼

The area described in the right-of-way aggregates approximately 0.67 of an acre.

JACK O. HORTON,
Assistant Secretary of the Interior.

OCTOBER 2, 1975.

[FR Doc.75-27140 Filed 10-8-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20490; FCC 75-1073]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Various Procedural Requirements for the Domestic Public Radio Services

1. On May 29, 1975, we initiated this proceeding by issuance of a Notice of Proposed Rulemaking, 40 FR 24021, for the purpose of promulgating in Parts 21 and 43 of the Commission's Rules new regulations to implement the use of new application forms and procedures, clarify application requirements, and institute various other modifications designed to simplify and improve our processing of common carrier radio applications.

2. One of the goals of this proceeding is to lay the basis for the automatic data processing (ADP) of common carrier microwave radio applications. Because ADP requires, among other things, a complete technical data base, we proposed to clarify our technical requirements by the implementation of new rules and application forms[1] in time for the submission of renewal applications in the microwave radio services for the next renewal period beginning February 1, 1976. Consequently, to accomplish this goal, we have decided to adopt these new technical requirements in a First Report and Order, leaving for future consideration the more complex issues of permissive facility changes; the fifty percent non-affiliation requirement for television relay service; licensing jurisdiction over Multipoint Distribution Service carriers; and the reporting of actual construction costs. Comments related to these subjects will be considered in a subsequent Report and Order.

3. Comments were filed July 25, 1975 by 12 parties; American Telephone and Telegraph (AT&T); American Television and Communications Corp. (ATC); GTE Service Corp. (GTE); Micro-TV, Inc. (Micro); Multipoint Microwave Common Carrier Association (MMCCA); National Association of Radio-telephone Systems (NARS); National Association of Regulatory Utility Commissioners (NARUC); Southern Pacific Communications Corp. (SPCC); Taft Broadcasting Corp. (Taft); Multipoint Distribution Systems, Inc., and Double B Radio, Inc.; and United States Transmission Systems, Inc. (USTS). Reply comments were receeved from GTE and MCI Telecommunications Corp. (MCI).

4. In general, the comments supported the proposed rules being considered by this Report and Order, but minor language changes were suggested and some questions were raised concerning reference to previously filed material, financial demonstration by large carriers, and the necessity of filing revised technical information with the 1976 renewals. These questions, and others believed to be of significance, are discussed below. We have considered also numerous other suggestions and proposals involving matters of less substantial nature, but rather than specifically discussing them here, we have modified the rules as considered appropriate.

5. GTE, Micro, MMCCA, and Taft objected the prohibition of the cross referencing to previously filed technical data (Section 21.31). SPCC on the other hand, supported our proposal, citing the time consuming experience of following a "chain" of cross references in order to locate previously filed exhibits. We have also noticed this phenomenon, as well as the discovery that the information cross referenced is often hopelessly out of date. However, we have modified our proposal to allow specific cross reference to lengthy exhibits which have been previously filed. But we cannot allow cross reference to specific technical data because this will be "keypunched" directly into the data base from the application form.

6. The Commission proposed to exempt large carriers with annual revenues in excess of one million dollars and a good credit rating from the requirement of filing balance sheets with each radio application. NARS opposed the proposal, contending that it was inconsistent with Section 308(b) of the Communications Act [47 U.S.C. § 308(b)] and created an unwarranted presumption since a favorable credit rating does not necessarily mean financial qualifications to construct and operate a radio station. Our proposal, however, creates no such presumption since it is clear under Section 21.15(a) that all applicants must demonstrate their financial ability. Section 21.15(c) is intended to exempt large carriers, most of which are closely regulated telephone companies, from the administrative burden of filing balance sheets with each set of radio applications where such a proposal may require a relatively small investment compared to the overall financial resources of the carrier. To clarify this, however, we are adapting a suggestion by GTE that § 21.15(c) specifically cross reference the reporting requirements of Part 43 to which such carriers are subject.

7. Only GTE protested proposed § 21.709(d) which would require microwave renewal applications to include all of the technical parameters of a station (as licensed) listed on page one of FCC Form 435. Claiming that the Commission does not appreciate the administrative burden, GTE suggests that the Commission undertake a careful study to justify the costs of this requirement. Although we understand that the collection of this data will require some extra effort on the part of licensees, we do not believe the requirement will be overly burdensome, particularly since it will require only a one time effort. With this information, the Commission will not only implement ADP procedures to do much of the processing of the many microwave radio applications received each year (thus improving service on applications), but this information will become a central data bank which will be made available to assist in prior coordination and frequency management. Consequently, we think that it will have substantial benefit which outweighs the one-time administrative inconvenience to the licensees.

8. Certain other changes deserve brief mention. Although proposed § 21.8 set forth all of the standard application forms used in Domestic Public Radio Services, we have rearranged this information into four sections (§§ 21.7, 21.9, 21.10 and 21.11) in the interests of clarity. Upon suggestion of NARUC, we have included (with minor changes suggested by SPCC) as § 21.13(f) the language of § 21.15(c)(4), although we will deal with

[1] By *Order*, 53 F.C.C. 2d 536 (1975), we implemented the use of a new form, FCC Form 435, for application for construction permit in the microwave services. With this Report and Order we are implementing the use of a new form, FCC Form 436, for application for license in the microwave services. This latter form has been approved by the General Accounting Office.

its applicability to MDS in a later Report and Order. GTE objected to the filing of detailed maintenance information for each of its stations, and § 21.15(e) (1) has been changed to require a more general description. AT&T and GTE objected to the deletion of present § 21.113 (which defines station location) and we have recodified this provision as § 21.14(j). We have also made numerous minor changes believed appropriate.

9. Accordingly, *it is hereby ordered*, That pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, [47 U.S.C. §§ 154(i), 303], Part 21 of the Commission's Rules and Regulations IS AMENDED, as set forth below, effective December 1, 1975.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Adopted: September 23, 1975.

Released: October 6, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

Part 21 of Chapter I, Title 47, of the Code of Federal Regulations is amended to read as follows:

1. Subparts A and B of the Table of Contents to Part 21 are revised and Subpart C amended to read as follows:

Subpart A—General

Sec.
21.0 Scope and authority.
21.1 [Reserved]
21.2 Definitions.

Subpart B—Applications and Licenses

GENERAL FILING REQUIREMENTS

21.3 Station authorization required.
21.4 Eligibility for station license.
21.5 Formal and informal applications.
21.6 Filing of applications, fees, and number of copies.
21.7 Standard application forms for point-to-point microwave radio, local television transmission and multipoint distribution services.
21.8 [Reserved]
21.9 Standard application forms for domestic public land mobile radio and rural radio services.
21.10 Special application requirements for for the domestic public land mobile radio and rural radio services.
21.11 Miscellaneous forms shared by all domestic public radio services.
21.12 [Reserved]
21.13 General application requirements.
21.14 [Reserved]
21.15 Technical content of applications.
21.16 [Reserved]
21.17 Demonstration of financial qualifications.
21.18 [Reserved]
21.19 [Reserved]
21.20 Defective applications.
21.21 Inconsistent or conflicting applications.
21.22 Repetitious applications.
21.23 Amendment of applications.
21.24 Form of amendments to applications.
21.25 Application for temporary authorizations.

PROCESSING OF APPLICATIONS

21.26 Receipt of applications.
21.27 Processing of applications.
21.28 Dismissal and return of applications.
21.29 Partial grants.
21.30 Grants without hearing.
21.31 Conditional grants.
21.32 Transfer and assignment of station authorization.
21.33 Period of construction.
21.34 Forfeiture of station authorizations.
21.35 License period.

Subpart C—Technical Standards

§ 21.109 Antenna and antenna structures.
§ 21.113 Quiet zones.

2. Section 21.0 is revised to read as follows:

§ 21.0 Scope and authority.

(a) The purpose of the rules and regulations in this part is to prescribe the manner in which portions of the radio spectrum may be made available for the use of radio for domestic common carrier communication operations which require transmitting facilities on land.

(b) The rules in this part are issued pursuant to the authority contained in Titles I through III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to regulate common carriers of interstate and foreign communications and to regulate radio transmissions and issue licenses for radio stations.

(c) Unless otherwise specified, the section numbers referenced in this part are contained in Chapter I, Title 47, of the Code of Federal Regulations.

§ 21.1 [Redesignated and Reserved]

3. Section 21.1 (Definitions) is redesignated as § 21.2 and § 21.1 is marked [Reserved].

§ 21.10 [Redesignated]

4. Section 21.10 (Eligibility for station license) is redesignated as § 21.4.

5. Section 21.11 (Station authorization required) is redesignated as § 21.3 and is revised to read as follows:

§ 21.3 Station authorization required.

(a) No person shall use or operate in the Domestic Public Radio Services any apparatus for the transmission of energy or communications or signals by radio except under and in accordance with, an appropriate authorization granted by the Federal Communications Commission.

(b) Except for mobile stations, and except when the Commission finds under the rules of this Part that the public interest, convenience, or necessity would be served by waiver of this requirement, no radio license shall be issued for the operation of any station unless a permit for its construction has been granted by the Commission. No construction or modification of a station may be commenced without a construction permit, a modified construction permit, or other authority issued by the Commission for the exact construction or modification to be undertaken, except as may be specifically provided for in other sections of this part.

(c) Upon the completion of construction or continued construction of any station pursuant to the terms of a construction permit and upon the filing of an application for license or modification of license, the Commission shall issue a license or modified license to the lawful holder of the permit for the operation of the station, provided that no cause or circumstance has arisen or first come to the knowledge of the Commission since the granting of the permit which would, in the judgment of the Commission, make the operation of such station against the public interest.

(d) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.

6. Section 21.12 is redesignated as § 21.5 and is revised to read as follows:

§ 21.5 Formal and informal applications.

(a) Except for an authorization under any of the proviso clauses of Section 308 (a) of the Communications Act of 1934 [47 U.S.C. § 308(a)], the Commission may grant only upon written application received by it, the following authorization: construction permits; station licenses; modifications of construction permits or licenses; renewals of licenses; transfers and assignments of construction permits or station licenses, or any right thereunder.

(b) Except as may be otherwise permitted by this Part, a separate written application shall be filed for each instrument of authorization requested. Applications may be:

(1) "Formal applications" where the Commission has prescribed in this Part a standard form; or

(2) "Informal applications" (normally in letter form) where the Commission has not prescribed a standard form.

(c) An informal application will be accepted for filing only if:

(1) A standard form is not prescribed or clearly applicable to the authorization requested;

(2) It is a document submitted, in duplicate, with a caption which indicates clearly the nature of the request, radio service involved, location of the station, and the application file number (if known); and

(3) It contains all the technical details and informational showings required by the rules and states clearly and completely the facts involved and authorization desired.

7. Section 21.13 is redesignated as § 21.6 and revised to read as follows:

§ 21.6 Filing of applications, fees, and numbers of copies.

(a) As prescribed by §§ 21.7, 21.9, 21.10 and 21.11 of this Part, standard formal application forms applicable to the Domestic Public Radio Services (other than Maritime Mobile) may be obtained from either: (1) Federal Communications Commission, Washington, D.C. 20554; or (2) any of the Commission's field operations offices, the addresses of which are listed in § 0.121.

(b) Applications for radio station authorizations shall be submitted for filing to: Federal Communications Commission, Washington, D.C. 20554.

(c) All correspondence or amendments concerning a submitted application shall clearly identify the radio service, the name of the applicant, station location, and the Commission file number (if known) or station call sign of the application involved, and may be sent directly to the Common Carrier Bureau.

(d) Except as otherwise specified, all applications, amendments, and correspondence shall be submitted in duplicate, including exhibits and attachments thereto, and shall be signed as prescribed by § 1.743.

(e) Each application shall be accompanied by the appropriate fee prescribed by, and submitted in accordance with, Subpart G of Part 1 of this chapter.

8. A new § 21.7 is added to read as follows:

§ 21.7 Standard application forms for point-to-point microwave radio, local television transmission, and multipoint distribution services.

(a) *Authority to construct a new station, to modify an existing construction permit, or to modify licensed facilities.* FCC Form 435 ("Application for New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21") shall be submitted and granted for each station involved prior to commencement of any proposed station construction or modification, except for facility changes for which FCC Form 436 is prescribed in paragraph (c) of this section.

(b) *License to cover facilities constructed in accordance with Construction Permit.* FCC Form 436 ("Application for a New or Modified Common Carrier Microwave Radio Station License Under Part 21") shall be filed:

(1) Prior to the expiration date of the construction permit (See § 21.34(a));

(2) Upon completion of construction or modification of a station in exact accordance with the terms and conditions set forth in the construction permit; and,

(3) Upon satisfactory completion of equipment tests under § 21.212(a).

(c) *Modification of license not requiring a prior construction permit.* Modification of a license may be effected without a prior construction permit by filing FCC Form 436 in the following circumstances:

(1) To request only the following modifications of license prior to the expiration of the license:

(i) The correction of erroneous information on a license which does not involve a major change (i.e., a change which would be classified as a major amendment as defined by § 21.23);

(ii) The deletion of licensed facilities; or

(iii) Changes in the terms or conditions of a license (e.g., changes in the obstruction marking and lighting requirements of an antenna supporting structure); or

(2) To license permissible changes which do not require prior authorization.

(d) *Authorization of temporary fixed stations or block assignment of radio frequencies.* FCC Forms 435 and 436 shall be submitted simultaneously for each mobile or fixed station to be installed and operated at various temporary locations within a specified area, or for block assignment or radio frequencies as set forth hereinafter in the applicable subparts of these rules.

§ 21.8 [Reserved]

9. Section 21.8 is marked Reserved.

10. A new § 21.9 is added to read as follows:

§ 21.9 Standard application forms for Domestic Public Land Mobile Radio and Rural Radio Services.

(a) *Authority to construct a new base, auxiliary test or fixed station, to modify an existing construction permit or to modify licensed facilities.* Except for facility changes for which FCC Form 403 is prescribed in paragraph (d), FCC Form 401 ("Application for New or Modified Common Carrier Radio Station Construction Permit Under Parts 21 and 25") shall be submitted for each station in the following categories of station construction or modification:

(1) Each base station.

(2) Each auxiliary test station, unless the auxiliary test station is located at the same place as the base station, in which case only one combined application need be filed.

(3) Each fixed station. If the equipment utilized is of such design as to comprise a packaged unit which is ready for installation and use with only nominal construction, FCC Form 403 may be filed together with FCC Form 401 for the simultaneous licensing of the proposed facilities.

(b) *License to cover facilities construction in accordance with construction permit.* FCC Form 403 ("Application for Radio Station License or Modification Thereof Under Parts 21, 23, or 25") shall be filed:

(1) Prior to the expiration date of the construction permit (see also § 21.34(a));

(2) Upon completion of construction or installation of a station in exact accordance with the terms and conditions set forth in the construction permit; and

(3) Upon satisfactory completion of equipment tests in accordance with § 21.212(a).

(c) *License for mobile station.* FCC Form 401 shall be filed as an application for mobile station license (since no construction permits are issued for mobile stations), subject to the following:

(1) Authority for a base station licensee to serve land mobile or airborne units to be licensed in the name of the carrier may be requested on the FCC Form 401 for the base station construction permit, except that additional mobile units for a licensed station may be applied for on FCC Form 403 as provided for in paragraph (d) of this section. The information should clearly specify the maximum number of mobile units to be placed in operation within the license period.

(2) Application for a license for land mobile or airborne stations submitted by persons who propose to become subscribers to a common carrier service for public correspondence shall specify the maximum number of mobile units expected to be placed in operation within the ensuing license period. Such applications shall also be accompanied by the supplemental showing set forth in § 21.15(i)(2) of this part.

(d) *Modification of station license not requiring a construction permit.*— Prior to the expiration of a license, an FCC Form 403 may be filed to request authority to make only those categories of changes to an existing station as listed below:

(1) Increase in number of mobile units;

(2) Change of control point (beyond the boundary of the city, borough, town, or community where the control point is authorized);

(3) Additional control points;

(4) New dispatching agreement;

(5) Authority to service vessels;

(6) Certain waiver requests, namely §§ 21.118(d)(2); 21.205(h)(3); 21.208(g)(2);

(7) Change in or additional emission;

(8) Request to delete or change antenna obstruction markings;

(9) Change in points of communications (Rural Radio Service);

(10) Correction of coordinates;

(11) Change of an authorized frequency; or

(12) Addition of frequencies for mobile transmitters.

(e) *Authorization of mobile units of Canadian Registry to operate in the United States.* FCC Form 410 shall be filed. (Copies of this form may also be obtained from the Director Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada.)

(f) *Authorization to operate U.S. mobile units in Canada.* A mobile station with a valid license issued by the Commission may obtain authority to operate in Canada upon filing an application ("Application for Registration for Radio Station Licensee of U.S.A.") with the Director Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada.

11. A new § 21.10 is added to read as follows:

§ 21.10 Special application requirements for the domestic public land mobile radio and rural radio services.

(a) All applicants for base, auxiliary test, and fixed stations in the specified regional areas listed in paragraph (b) of this section must accompany FCC Form 401 with FCC Form 425 for the application to be considered complete.

(b) The following areas are considered specified Regional Areas:

(1) The Chicago Regional Area consists of the counties listed below:

ILLINOIS

1. Boone
2. Bureau
3. Carroll
4. Champaign
5. Christian
6. Clark
7. Coles
8. Cook
9. Cumberland
10. De Kalb
11. De Witt
12. Douglas
13. Du Page
14. Edgar
15. Ford
16. Fulton
17. Grundy
18. Henry
19. Iroquois
20. Jo Daviess
21. Kane
22. Kankakee
23. Kendall
24. Knox
25. Lake
26. La Salle
27. Lee
28. Livingston
29. Logan
30. Macon
31. Marshall
32. Mason
33. McHenry
34. McLean
35. Menard
36. Mercer
37. Moultrie
38. Ogle
39. Peoria
40. Platt
41. Putnam
42. Rock Island
43. Sangamon
44. Shelby
45. Stark
46. Stephenson
47. Tazewell
48. Vermilion
49. Warren
50. Whiteside
51. Will
52. Winnebago
53. Woodford

INDIANA

1. Adams
2. Allen
3. Benton
4. Blackford
5. Boone
6. Carroll
7. Cass
8. Clay
9. Clinton
10. De Kalb
11. Delaware
12. Elkhart
13. Fountain
14. Fulton
15. Grant
16. Hamilton
17. Hancock
18. Hendricks
19. Henry
20. Howard
21. Huntington
22. Jasper
23. Jay
24. Kosciusko
25. Lake
26. Lagrange
27. La Porte
28. Madison
29. Marion
30. Marshall
31. Miami
32. Montgomery
33. Morgan
34. Newton
35. Noble
36. Owen
37. Parke
38. Porter
39. Pulaski
40. Putnam
41. Randolph
42. St. Joseph
43. Starke
44. Steuben
45. Tippecanoe
46. Tipton
47. Vermillion
48. Vigo
49. Wabash
50. Warren
51. Wells
52. White
53. Whitley

IOWA

1. Cedar
2. Clinton
3. Dubuque
4. Jackson
5. Jones
6. Muscatine
7. Scott

MICHIGAN

1. Allegan
2. Barry
3. Berrien
4. Branch
5. Calhoun
6. Cass
7. Clinton
8. Eaton
9. Hillsdale
10. Ingham
11. Ionia
12. Jackson
13. Kalamazoo
14. Kent
15. Lake
16. Mason
17. Mecosta
18. Montealm
19. Muskegon
20. Newaygo
21. Oceana
22. Ottawa
23. St. Joseph
24. Van Buren

OHIO

1. Defiance
2. Mercer
3. Paulding
4. Van Wert
5. Williams

WISCONSIN

1. Adams
2. Brown
3. Calumet
4. Columbia
5. Dane
6. Dodge
7. Door
8. Fond du Lac
9. Grant
10. Green
11. Green Lake
12. Iowa
13. Jefferson
14. Juneau
15. Kenosha
16. Kewaunee
17. Lafayette
18. Manitowoc
19. Marquette
20. Milwaukee
21. Outagamie
22. Ozaukee
23. Racine
24. Richland
25. Rock
26. Sauk
27. Sheboygan
28. Walworth
29. Washington
30. Waukesha
31. Waupaca
32. Wauahara
33. Winnebago

12. A new § 21.11 is added to read as follows:

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

(a) *Licensee qualifications.* FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be filed in both of the following instances for each radio service and shall be kept current under § 1.65:

(1) As required by other application forms; and

(2) Annually no later than January 31 for the end of the preceding calendar year by licensees or permittees (except for individual mobile subscribers to a common carrier service), if public service was offered at any time during that calendar year.

(b) *Additional time to construct.* FCC Form 701 ("Application for Additional Time to Construct Radio Station") shall be filed in duplicate by a permittee prior to the expiration date of each construction permit to be extended. However, Form 701 need not be filed if a permittee has requested in FCC Form 401 or 435 additional time to construct incidental to a modification of construction permit.

(c) *Renewal of station license.* Except for renewal of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed in duplicate by the licensee between thirty (30) and sixty (60) days prior to the expiration date of the license sought to be renewed. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group, if the application identifies each station by call sign and station location and if two copies are provided for each station affected. Applicants should note also any special renewal requirements under the rules for each radio service.

(d) *Assignment of permit or license.* FCC Form 702 ("Application for Consent to Assignment of Radio Station Construction Permit or License for Stations in Services Other than Broadcasting"), shall be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control) the application should be filed within 10 days of the event causing the assignment (or transfer of control). In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed assignee unless such assignee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved assignment, the Commission shall be notified by letter of the date of consummation.

(e) *Partial assignment of license or permit.* (1) In the microwave services, authorization for assignment from one company to another of only a part or portions of the facilities (transmitters) authorized under an existing construction permit or license (as distinguished from an assignment of the facilities in their entirety), may be granted upon an application: (i) by the assignee on FCC Form 435 or 436 as the situation requires; and (ii) by the assignor on FCC Form 436 for deletion of the assigned facilities, indicating concurrence in the request. Where the assigned facilities are to be incorporated into an existing licensed station, the assignee shall only file an FCC Form 436. Where a new station is to be established, FCC Forms 435 and 436 shall be submitted by the assignee. The assignment shall be consummated within 60 days from the date of authorization. In the event that consummation does not occur, FCC Form 436 shall be filed to return the assignor's authorization to its original condition.

(2) In the Domestic Public Land Mobile Radio and Rural Radio Services, the same procedure as specified above shall apply except that FCC Forms 401 and 403 shall be used in lieu of FCC Forms 435 and 436.

(f) *Transfer of control of corporation holding a permit or license.* FCC Form 704 ("Application for Consent to Transfer of Control of Corporation Holding

Common Carrier Radio Station Construction Permit or License"), shall be submitted in order to voluntarily or involuntarily transfer control (*de jure* or *de facto*) of a corporation holding any construction permits or licenses. In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed transferee unless said transferee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved transfer, the Commission shall be notified by letter of the date thereof.

§ 21.12 [Reserved]

13. Section 21.12 is marked Reserved.

14. A new § 21.13 is added to read as follows:

§ 21.13 General application requirements.

(a) Each application for a construction permit or for consent to assignment or transfer of control shall:

(1) Disclose fully the real party (or parties) in interest, including (as required (a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;

(2) Demonstrate the applicant's legal, financial, technical, and other qualifications to be a permittee or licensee;

(3) Submit the information required by the Commission's Rules, requests, and application forms;

(4) State specifically the reasons why a grant of the proposal would serve the public interest, convenience, and necessity;

(5) Be maintained by the applicant substantially accurate and complete in all significant respects in accordance with the provisions of § 1.65 of this Chapter; and

(6) Show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable (e.g. those required by §§ 21.100(d), 21.103, 21.501, 21.505, 21.506, 21.516, 21.608, 21.609, 21.700, 21.706, 21.900, etc.).

(b) Where documents, exhibits, or other lengthy showings already on file with the Commission contain information which is required by an application form, the application may specifically refer to such information, if:

(1) The information previously filed is over one 8½ by 11" page in length, and all information referenced therein is current and accurate in all significant respects under § 1.65 of this chapter; and

(2) The reference states specifically where the previously filed information can actually be found, including mention of:

(i) The radio service and station call sign or application file number whenever the reference is to stations files or previously filed applications;

(ii) The title of the proceeding, the docket number, and any legal citations, whenever the reference is to a docketed proceeding.

However, questions on an application form which call for specific technical data, or which can be answered by a "yes" or "no" or other short answer shall be amended as appropriate and shall not be cross-referenced to a previous filing.

(c) In addition to the general application requirements of §§ 21.13 through 21.17 of this Part, applicants shall submit any additional documents, exhibits, or signed written statements of fact:

(1) As may be required by the other Parts of the Commission's Rules, and the other subparts of Part 21 (particularly Subpart C and those subparts applicable to the specific radio service involved); and

(2) As the Commission, at any time after the filing of an application and during the term of any authorization, may require from any applicant, permittee, or licensee to enable it to determine whether a radio authorization should be granted, denied, or revoked.

(d) Except when the Commission has declared explicitly to the contrary, an informational requirement does not in itself imply the processing treatment or decisional weight to be accorded the response.

(e) All applicants are required to indicate at the time their application is filed whether or not the application is a "major action" as defined by § 1.1305 of the Commission's Rules. If answered affirmatively, the requisite environmental statement as prescribed in § 1.1311 must be filed with the application.

(f) Where required by applicable local law, an applicant shall include a copy of the franchise or other authorization issued by appropriate regulatory authorities. If no such local requirement exists, or if Commission authority is a prerequisite for such authorization, a statement to this effect shall be included in the application.

(g) Whenever an individual applicant, or a partner (in the case of a partnership) or a full time manager (in the case of a corporation) will not actively participate in the day-to-day management and operation of proposed facilities, the applicant will submit a statement containing the reasons therefor and disclosing the details of the proposed operation, including a demonstration of how control over the radio facilities will be retained by the applicant.

§ 21.14 [Reserved]

15. Section 21.14 is deleted and marked Reserved.

16. Section 21.15 is revised to read as follows:

§ 21.15 Technical content of applications.

Applications for construction permits shall contain all technical information required by the application form and any additional information necessary to fully describe the proposed construction and to demonstrate compliance with all technical requirements of the rules governing the radio service involved (see Subparts C, F, G, H, I, J and K as appropriate). The following paragraphs describe a number of general technical requirements.

(a) Applicants proposing a new station location (including receive-only stations and passive repeaters) shall indicate whether the station site is owned. If it is not owned, its availability for the proposed radio station shall be demonstrated. Under ordinary circumstances this requirement will be considered satisfied if the site is under lease or under written option to buy or lease, or in the case of land under U.S. Government control, written confirmation of site availability from the appropriate Government agency has been received. Where any lease or agreement to use land limits or conditions in any way the applicant's access or use of the site to provide public service, a copy of the lease or agreement (which clearly indicates the limitations) shall be filed with the application.

(b) Applicants proposing to construct or modify a radio station on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and follow the procedure prescribed by § 1.70 of this chapter.

(c) Each application involving a new or modified antenna supporting structure or passive facility, the addition or removal of an antenna, or the repositioning of an authorized antenna must be accompanied by a vertical profile sketch of the total structure depicting its structural nature and clearly indicating the ground elevation (above mean sea level) at the structure site, the overall height of the structure above ground (including obstruction lights when required, lightning rods, etc.) and, if mounted on a building, its overall height above the building. All antennas on the structure must be clearly identified and their heights above-ground (measured to the center of radiation) clearly indicated. In addition, the height to the upper tip of the antenna shall be indicated for those operating in the Domestic Public Land Mobile Radio Service, Rural Radio Service and Multipoint Distribution Service.

(d) Each application proposing a new antenna structure or modification of an existing one so as to change its overall height shall include a statement indicating whether or not FAA notification is required. If notification is required, the applicant should include with the application a copy of the FAA study regarding potential hazard to aviation. If the applicant has not received the FAA study, the application should include the name used in the FAA notification, the location of the FAA regional office involved and the date of the notification. [Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter. See also § 21.111 if the structure is used by more than one station.]

(e) An applicant proposing construction of one or more new stations or mod-

ification of existing stations where substantial changes in the operation or maintenance procedures are involved must submit a showing of the general maintenance procedures involved to insure the rendition of good public communications service. The showing should include but need not be limited to the following:

(1) A general description of the technical personnel responsible for the day-to-day operation and maintenance of the facilities.

(2) Location and telephone number (if known) of the maintenance center for a point to point microwave system. In lieu of providing the location and telephone number of the maintenance on a case by case basis, a carrier may file a complete list for all operational stations with the Commission and the Engineer-In-Charge of the appropriate radio district on an annual basis or at more frequent intervals as necessary to keep the information current.

(3) A general description of the routine maintenance procedures to be followed and a description of the procedures to be followed for non-routine repair during outages. Include a description of the test equipment available.

(4) The manner in which technical personnel are made aware of a malfunction at any of the stations and the appropriate time required for them to reach any of the stations in the event of an emergency. If fault alarms are to be used, the items to be alarmed shall be specified as well as the location of the alarm center.

(5) Indicate whether maintenance personnel will be on duty for all hours of station operation. If not, submit information specifying the method for identifying and correcting system malfunctions when maintenance personnel are not on duty.

(f) If the maintenance for one or more radio stations is to be accomplished by contractural arrangement with an entity unrelated to an applicant, permittee or licensee, the application shall contain a copy of the agreement or contract which shall demonstrate that:

(1) The maintenance is accomplished according to general instructions provided for by the applicant;

(2) The applicant retains effective control over the radio facilities and their operation; and

(3) The applicant assumes full responsibility for both the quality of service and for contractor compliance with the Commission's Rules.

(g) Each application for construction permit for a developmental authorization shall be accompanied by pertinent supplemental information as required by § 21.405 in addition to such information as may be specifically required by this section.

(h) Each application in the Point-to-Point Microwave Radio, Local Television Transmission, Multipoint Distribution Services and Rural Radio Services which proposes to establish a new permanently located, fixed communication facility (e.g. a transmitting site, receiving site, passive reflector or passive repeater), or to make changes or corrections in the location of such a facility already authorized, shall be accompanied by a topographic map (a U.S. Geological Survey Quadrangle or map of comparable detail and accuracy) with the location of the proposed facility accurately plotted and identified thereon. This map should not be cropped so as to delete pertinent border information and must be submitted in the same number of copies as the application it accompanies. (Map requirements for the Domestic Public Land Mobile Radio Service are specified in the application form.)

(i) In the Domestic Public Land Mobile Radio Service each application shall contain, as appropriate, the following information:

(1) Each application for construction permit for base station which proposes to establish a new communication facility, make changes in area of coverage of a station already authorized, or install additional transmitters shall describe the antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(2) All applications for new or additional facilities shall identify any other pending applications in this service for new or additional facilities for the same general geographic area that applicant, or any principal thereof, may be a party to or have an interest in, either directly or indirectly.

(3) An application for land or airborne mobile units to be licensed in the name of a person who is not the licensee of the base station with which the mobile units will be associated in the Domestic Public Land Mobile Radio Service shall be accompanied by the information indicated in § 21.13(a) and 21.13(c) together with an affirmative showing that:

(i) The mobile units for which authorization is sought are for the applicant's own use;

(ii) Definite arrangements have been made for the requested number of mobile units to obtain communication service, upon the frequencies requested, through the base stations specifically identified in the application;

(iii) Specific arrangements, the details of which should be set forth, have been made for installation, technical service and maintenance of the mobile units by licensed first- or second-class radio operators; and

(iv) The mobile units will be operated primarily in the area or areas, or both, through the base stations specifically identified in the application and more particularly detailed in subparagraph (2) of this paragraph.

(j) Each application for construction permit for a base station in the Domestic Public Land Mobile Radio Service which proposes to establish a new communication facility or make changes in the area of coverage of a station already authorized shall be accompanied by technical engineering information with respect to:

(1) Type of antenna polarization used.

(2) Type of antenna used, including type number and manufacturer thereof.

(3) Antenna power gain expressed in decibels.

(4) Antenna radiation pattern (on letter size polar coordinate paper) showing the antenna power gain distribution in the horizontal plane expressed in decibels.

(5) Orientation of directional antenna array, expressed in degrees of azimuth, with respect to true north.

(6) Antenna height above average terrain for each of the eight radials specified in paragraph (j)(8)(ii) of this section. (See also § 21.115.)

(7) Antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(8) Topographic maps (see also § 21.116) showing thereon:

(i) Exact station location.

(ii) Location of radials used in determining elevation of average terrain.

(9) Effective radiated power for all eight radials specified in paragraph (j)(8)(ii) of this section.

(k) The location of the transmitting antenna shall be considered to be the station location. Applications for stations at specified fixed locations shall describe the transmitting antenna site and each passive reflector or passive repeater site by their geographical coordinates and also by conventional reference to street number, landmark, etc. In the fixed point-to-point services authorized under this part, the site of each terminal receiving antenna location shall be described by geographical coordinates. All such coordinates shall be specified in terms of degrees, minutes and seconds to the nearest second of latitude and longitude.

§ 21.16 [Reserved]

17. Section 21.16 is deleted and marked Reserved.

18. Section 21.17 is revised to read as follows:

§ 21.17 Demonstration of financial qualifications.

(a) Each application for authority to construct a new station or substantially modify an existing station shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other initial expenses; and

(2) Estimated operating expenses for a reasonable period of time, depending upon the nature of service proposed and the degree of business uncertainty or risk. (E.g., the proposal of a new or somewhat speculative service with a higher degree of business uncertainty would require a showing for a longer time period.)

(b) Except as provided in paragraph (c) of this section, each application shall demonstrate an applicant's financial ability, under paragraph (a) of this section by submitting the following financial information, the information required by paragraph (e) of this section, and whatever other information or details the Commission may require:

(1) A balance sheet current within ninety (90) days of the date of the application and copies of any financial commitments (such as, for example, loan agreements and service contracts) in support of the proposed facilities; and

(2) Whenever the submissions of paragraph (b)(1) of this section do not satisfy paragraph (a) of this section, the applicant shall submit additional information (e.g. a current income statement, and, for the period of proposed construction plus an initial year of operation, a statement of projected revenues and expenses, a statement of projected sources and application of funds, etc.) as is necessary to demonstrate financial ability.

(c) An applicant need not submit the financial information required by paragraph (b)(1) of this section, if paragraph (a) of this section can be clearly satisfied by an exhibit demonstrating that the applicant had operating revenues of $1 million or more for the previous year, has filed annual (or monthly) reports under Part 43 of this chapter and maintains as of the date of the application a credit rating equivalent to, or better than, either a Standard & Poor's Rating of "BBB" or a Moody's Bond Rating of "Baa."

(d) Each application for an assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in this section, as appropriate.

(e) The following additional information shall be submitted on any form of intended credit arrangement or equity placement:

(1) The details of any loan or other form of credit arrangement intended to be utilized to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), letters of commitment, terms of the transaction, and a statement that paragraph (f) of this section is complied with; and

(2) The details of any sale or placement of any equity or other form of ownership interest.

(f) In addition to the disclosures required by paragraph (d) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

§§ 21.18 and 21.19 [Reserved]

19. Sections 21.18 and 21.19 are deleted and marked Reserved.

20. Section 21.20 is revised to read as follows:

§ 21.20 Defective applications.

(a) Unless the Commission shall otherwise permit, an application will be unacceptable for filing and will be returned to the applicant with a brief statement as to the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, execution, or other matters of a formal character; or

(2) The application does not substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements.

(b) Some examples of common deficiencies which result in defective applications under paragraph (a) of this section are:

(1) The application is not properly executed;

(2) The submitted filing fee is insufficient under § 1.1113 of this chapter;

(3) The application does not demonstrate how the proposed radio facilities will serve the public need or interest;

(4) The application does not demonstrate compliance with the special requirements applicable to the radio service involved (e.g. noted in § 21.13(a)(6) of this chapter);

(5) The application does not demonstrate the availability of the proposed site of a new facility;

(6) The application does not include the environmental showing required for a "major action" under § 1.1305 of this chapter;

(7) The application does not include U.S. Forest Service or Bureau of Land Management certification of site availability under § 1.70 of this chapter whenever a proposed new or modified facility is to be located on land under the jurisdiction of these agencies;

(8) The application is filed after the "cut-off" date prescribed in § 21.30 of this part;

(9) The application proposes the use of a frequency not allocated to such use; or

(10) In the Domestic Public Land Mobile Radio Service failure to provide specific answers as required to Items 1, 5, 7, 8, 10, 17, 18, 19, 20, or 26 of FCC Form 401 (answers by cross reference are not acceptable—see § 21.13(b)), or failure to propose type accepted equipment (except for developmental applications).

(c) Applications considered defective under paragraph (a) of this section may be accepted for filing if:

(1) The application is accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulation, or requirement with which the application is in conflict; or

(2) The Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement.

(d) If an applicant is requested by the Commission to file any documents or any supplementary or explanatory information not specifically required in the prescribed application form, a failure to comply with such request within a specified time period will be deemed to render the application defective and will subject it to dismissal.

21. Section 21.34 is revised to read as follows:

§ 21.34 Forfeiture and termination of station authorization.

(a) A construction permit shall be automatically forfeited if the station is not ready for operation within the term of the construction permit (as evidenced by the commencement of service tests as specified by § 21.212), or within such additional time as may be authorized by the Commission (upon receipt of an appropriate and timely filed application), unless prevented by causes not under the control of the permittee. Where so forfeited, the Commission will consider a petition for reinstatement of a construction permit only where:

(1) It is filed within 30 days of the expiration of the construction permit;

(2) Good cause is shown for the failure to apply for an extension of the permit prior to its expiration date; and

(3) Where it is accompanied by an appropriate application for extension of time to construct or modification of construction permit.

(b) A license shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license has been filed with the Commission. An application for renewal filed after the expiration date of the license will be considered only if:

(1) It is filed within 30 days of such expiration date;

(2) It explains the failure to timely file a renewal application is submitted; and

(3) It describes procedures which have been established to insure timely filings in the future.

(c) A special temporary authorization shall automatically terminate upon the expiration date stated therein or upon failure of the carrier to comply with any special terms or conditions set forth therein. Operation may be extended beyond such termination date only upon specific authorization by the Commission.

22. The first two sentences of paragraph (c) of § 21.108 are revised to read as follows:

§ 21.108 Directional antennas.

* * * * *

(c) Fixed stations (other than temporary fixed) operating at 2,500 MHz or

higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liability set forth in § 21.109(c). Additionally, the main lobe of each antenna operating below 5,000 MHz shall have minimum power gain of 36 dBi over an isotropic antenna; at or above 5,000 MHz the minimum gain shall be 38 dBi. * * *

23. Change the title of § 21.109 and add a new paragraph (d) to read as follows:

§ 21.109 Antenna and antenna structures.

* * * * *

(d) No replacement or change of antenna or antenna structure shall be effected without prior authorization from the Commission except as provided for under this section.

24. The last sentence of § 21.111 is amended to read as follows:

§ 21.111 Simultaneous use of common antenna structure.

* * * * *

Provided, however, That each permittee, licensee or user of any such structure is responsible for maintaining the structure, and for painting and illuminating the structure when obstruction marking is required by the Commission. (See § 21.15(d) and § 21.109(b).)

25. Section 21.113 is revised to read as follows:

§ 21.113 Quiet zones.

Quiet zones are those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to radio frequency interference. The areas involved and procedures required are as follows:

(a) In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, or temporary fixed seeking authorization for a new station or to modify an existing station in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south, and 80°30′ W. on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, West Virginia 24944, in writing, of the technical particulars of the proposed operation. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity (if any), proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(b) In order to minimize possible harmful interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado, applicants for new or modified radio facilities in the vicinity of Boulder County, Colorado are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that field strengths at 40°07′50″ N. latitude, 105°14′40″ W. longitude, resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of service
Below 540 kHz	10	−65.8
540 to 1600 kHz	20	−59.8
1.6 to 470 MHz	10	2−65.8
470 to 800 MHz	30	2−56.2
Above 800 MHz	1	2−85.8

[1] Equivalent values of power flux density are calculated assuming free-space characteristic impedance of 376.7=120 ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plan of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plan of polarization in the azimuthal direction of Table Mountain Radio Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plan of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, NOAA/OT/NBS, Time and Frequency Division, Boulder Laboratories, Boulder, Colo. 80302; telephone 303–499–1000, extension 3542 or 3294, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the reference point in excess of the field strength specified herein.

26. Paragraph (d) of § 21.118 is revised to read as follows:

§ 21.118 Transmitter construction and installation.

* * * * *

(d) Each base station in these services is required to have:

(1) At least one control point (see § 21.515); and

(2) A person on duty at the control point who is in charge of the station's operations during the normal rendition of service (see § 21.205). The location of an authorized control point may not be moved beyond the boundary of the city, borough, town or community without prior Commission approval. Any associated changes made in the dispatching arrangements should accompany the application for change in such cases.

27. Section 21.119 is revised to read as follows:

§ 21.119 Limitation on use of transmitters for other services.

Transmitters licensed for operation in services governed by this part may not be concurrently licensed or used for non-common carrier communication purposes. However, mobile units may be concurrently licensed or used for non-common carrier communication purposes provided that the transmitter is type-accepted for use in each service.

28. Section 21.501(f) is redesignated 21.501(f)(1) and a new section 21.501(f)(2) is added to read as follows:

§ 21.501 Frequencies.

* * * * *

(f) * * *

(2) Each application requesting authority to establish operations on frequencies in the 72–76 MHz band shall be accompanied by:

(i) A showing that the applicant agrees to eliminate any harmful interference which may be caused by his operation to television reception on either channel 4 or 5, and if said interference cannot be eliminated within 90 days of the time the matter is first brought to his attention by the Commission, operation of the

interfering fixed station will be immediately discontinued.

(ii) In cases where it is proposed to locate a 72–76 fixed station less than 80, but more than 10, miles from the site of a television transmitter operating on either channel 4 or 5, or from the post office of a community in which such channels are assigned but not in operation, a showing shall be made as to the number of family dwelling units (as defined by the U.S. Bureau of Census) located within a circle centered at the location of the proposed fixed station (family dwelling units 70 or more miles distant from the television station antenna site are not to be counted (the radius of which shall be determined by use of charts entitled, "Chart for Determining Radius From Fixed Station in 72–76 MHz Band to Interference Contour Along Which 10 Percent of Service from Adjacent Channel Television Station Would Be Destroyed" (Charts for television channels 4 and 5 are set forth in § 21.103).

(iii) In cases where more than 100 family dwelling units are contained within the circle (determined according to paragraph (f) (2) of this section), the number of dwelling units therein shall be stated and a factual showing made that:

(A) The proposed site is the only suitable location.

(B) It is not feasible, technically or otherwise, to use other available frequencies.

(C) The applicant has a definite plan, which should be disclosed, to control any interference that might develop to television reception from his operations.

(D) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by his operations.

* * * * *

29 Paragraphs (a) and (b) of § 21.706 are revised to read as follows:

§ 21.706 Supplementary showing required with applications.

(a) Each application for initial installation of a radio station in this service, or for installation of equipment to provide additional service, or for authority to communicate with new points, shall be accompanied by a statement showing how the proposal will serve the public interest, convenience and necessity. Such statement must include information concerning:

(1) The nature and type of services to be rendered (e.g. telephone/telegraph, private line voice/data, television transmission, etc.)

(2) The cities or communities to be served including the number of circuits to be established. Where multiple cities are to be served, specify by diagram or other appropriate means the circuit cross section between service points.

(3) Projected future circuit growth anticipated between service points and indicate the source of such projections.

(4) Where the construction of radio facilities is dependent upon the specific requirements of one or several customers of a limited class (e.g. those desiring television signals), the need for facilities should be supported by an order for service from each such customer.

(b) Where specific information required by paragraph (a) of this section has been submitted in connection with applications filed under Part 63 of this chapter, duplicate information in support of applications submitted pursuant to this part is not required provided appropriate references are made therein. The information submitted in connection with paragraph (a) of this section shall not be considered to replace any requirement to acquire authority for channelizing pursuant to Section 214 of the Communications Act.

* * * * *

30. Section 21.709 is amended by the addition of a new paragraph (d) to read as follows:

§ 21.709 Renewal of station licenses.

* * * * *

(d) Each applicant for renewal of license for a term commencing between January 1, 1976 and January 1, 1981 shall submit with the application all of the technical parameters of the station (as licensed) listed on page 1 of FCC Form 435. If the same information has previously been submitted for the station on a Form 435, this requirement will be waived. Applicants are urged to file this information on punched cards in accordance with the Commission publication *Punched Card Format for Common Carrier Microwave Applications.* (Copies of this publication may be obtained through the Common Carrier Bureau.)

[FR Doc.75-27158 Filed 10-8-75;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 275]

PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS AND FILING OF CERTIFICATES AND REPORTS

Expanded Definition of Term "Securities"; Denial of Petitions for Reconsideration

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 5th day of September 1975.

It appearing, That the Commission, on the date hereof, has made and filed its report in this proceeding upon further consideration setting forth its conclusions and findings and reasons therefor, which report is hereby referred to and made a part hereof:

It is ordered, That the term "securities" as found in section 20a of the Interstate Commerce Act be henceforth interpreted as including, among other things, those instruments specifically enumerated in section 20a(2) as well as other evidences of interest in or indebtedness of carriers, which include, but are not limited to advances payable to an affiliated company, loan agreements, credit agreements, mortgages, chattel mortgaes, deeds of trust, equipment trusts, security agreements, and purchase agreements of property having a useful life in excess of 1 year whose terms provide for other than full payment at the time of consummation, but shall not at this time be interpreted to include agreements entered into for the sole purpose of acquiring motor carrier operating motor carrier operating equipment.

It is further ordered, That the terms "assume any obligation or liability" as found in section 20a of the Interstate Commerce Act be henceforth interpreted as including an advance of funds to an affiliated company.

It is further ordered, That the petitions for reconsideration of that part of the Commission's August 16, 1973 (38 FR 23953, 24903; Sept. 5, 1973, Sept. 11, 1973) order adopting amendments to Part 1115 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations (the text of such amendments being set forth in appendix C to the Commission's report of this date) be, and they are hereby, denied.

It is further ordered, That this order shall become effective December 8, 1975.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy of this notice in the Office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.[1]

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX C

The following additions to Form OP-F-200 (formerly Form BF-6) were adopted by the Commission in its 1973 report and order in this proceeding: [2]

Item 1(c).—A statement clearly outlining the measures taken by a carrier, and its subsidiaries or affiliates, to insure that compliance with section 10 of the Clayton Antitrust Act (15 U.S.C. 20) has been achieved with respect to the proposed financing and all nonsecurity financing entered into in the current year of the application and the 2 previous calendar years.

Item 2(d).—Applicant shall file a list of the amounts, terms, and purposes of all nonsecurity financing for the current year and 2 previous calendar years, by separate category, including, but not limited to, conditional sale contracts, chattel mortgages, security agreements, mortgages, deeds of trust loan agreements in the nature of standby credit agreements, credit agreements, and advances.

The terms of each category of nonsecurity financing shall include the interest rate, terms of repayment, collateral pledged as security therefor, material restrictions of

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[1] Appendix A, Petitioners, and Appendix B, Summary of Representative Arguments and Proposals of the Parties, are filed as part of the original document.

[2] Amendments were originally filed as part of the original document in the issue of Sept. 5, 1973; 38 FR 23953.

such arrangements, as well as a detailed breakdown as to the use of the proceeds or credit thus obtained, specifically identifying uses for noncarrier purposes.

Item 2(e).—Applicant shall file the following:

(i) Consolidated balance sheet and a consolidated income statement for applicant and its subsidiaries, showing inter-company eliminations.

(ii) A balance sheet and income statement for each of applicant's subsidiaries, or if this is not possible, a statement listing the annual net income and stockholders' equity (net worth) of each of the subsidiaries.

(iii) Applicant's pro forma income statement showing its forecasted revenues, expenses, and net income for the 12 months following the application date.

(iv) Applicant's cash flow statement for the 12 months preceding the filing of the application and its forecasted cash flow statement for the 12 months subsequent to such filing. These statements should show opening cash on hand, receipts by categories, disbursements by items, and cash balance at the end of the period, with a breakdown of funds flowing to and from carrier subsidiaries.

[FR Doc.75-27225 Filed 10-8-75;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 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Amendment Listing the Snail Darter as an Endangered Species

Background. On January 20, 1975, Joseph P. Congleton, Zygmunt J. B. Plater, and Hiram G. Hill, Jr., petitioned the Department of the Interior to list the snail darter (*Percina* (*Imostoma*) sp.) from the Little Tennessee River, as an endangered species according to the expedited emergency procedures of section 4(f)(2)(B)(ii) of the Endangered Species Act of 1973. This petition, and accompanying supportive data, were examined by the Fish and Wildlife Service which determined that sufficient evidence existed to warrant a review of the status of these species. A notice to that effect was placed in the FEDERAL REGISTER on March 10, 1975 (40 FR 11618). Simultaneously, the Governor of Tennessee was notified of the review, and was requested to supply data on the status of the species in his State.

As a result of this review, the Director of the Fish and Wildlife Service found that there are sufficient data to warrant a proposed rulemaking that the snail darter be listed as an endangered species. This proposed rulemaking was published in the FEDERAL REGISTER on June 17, 1975 (40 FR 25597). Interested persons were invited to submit written comments on the proposal to the Director no later than August 18, 1975.

Summary of Comments. Sixteen comments were received. Portions relevant to the biological status of the snail darter are summarized as follows:

(1) Twelve persons completely supported the proposed rulemaking. These included several ichthyologists and biology professors who felt it was a valid species and did need protection. Also among these were several concerned citizens decrying the possible destruction of the species which is threatened by the Tellico Dam.

(2) There were three letters opposing the listing of the snail darter as "endangered," none of which was relevant to the biological evaluation.

(3) A letter and attached appendices were received from the Tennessee Valley Authority, the agency sponsoring the construction of Tellico Dam. The Tennessee Valley Authority is opposed to listing the snail darter as an Endangered species. Quoted below are the specific objections raised by TVA in their extensive comments and appendices:

1. Listing of this fish would have no valid basis since the taxonomic status of the fish has not been determined, there is no known publication of its description, and it has never been classified as a new and distinct species.

2. Clearly, no present threat exists to the snail darter which would justify shortcutting the customary scientific procedures. There has been no systematic or adequate study of the range of this fish. There is, however, scientific opinion that the fish undoubtedly exists elsewhere in the Tennessee River system, unaffected by the Tellico project. In light of this, the statement in the notice that impoundment of Tellico "would result in total destruction of the snail darter's habitat" is in error.

3. Listing the snail darter would not enhance the likelihood that this fish would survive and therefore would not further the purposes of the Endangered Species Act. As a part of the Tellico project, TVA and others already are undertaking a scientifically recognized program to conserve the snail darter.

4. For the foregoing reasons, it is clear that the Endangered Species Act does not require, nor indeed does it even permit, the Secretary's proposed listing. In light of this we do not believe that the Fish and Wildlife Service should inject itself into the long-standing controversy surrounding the wisdom of the Tellico project. Tellico is a lawfully authorized federal project which has been under construction since March 1967. It has been repeatedly funded by Congress, over objections of opponents, and impoundment is presently scheduled for January 1977. Its environmental consequences, including specifically its effect on undescribed species of darters which were thought to be rare and endangered, were fully described and considered in TVA's Environmental Impact Statement for the project. The sufficiency of that statement and the reasonableness of the TVA Board's decision to proceed after enactment of the National Environmental Policy Act has been litigated and upheld by both the United States District Court for the Eastern District of Tennessee and the Sixth Circuit Court of Appeals. Subsequent to such litigation, Congress, with full knowledge of the project's environmental impacts, has continued to appropriate money for completion. In light of this exhaustive review of the project, including specifically a consideration of its effect on possibly rare and endangered species of fish, no worthwhile purpose could possibly be served by listing the snail darter as "endangered" solely because "The proposed impoundment of water behind the proposed Tellico Dam would result in total destruction of the snail darter's habitat," as stated in your notice. We believe the likely result would be more time-consuming and meritless litigation.

In summary, TVA believes that there is no scientific basis to support listing the snail darter, there is no environmental need for such action, and that nothing positive would be accomplished.

The Director has considered the above comments as well as the appendices accompanying such comments. The Director has also considered other information obtained by the Fish and Wildlife Service subsequent to the proposed rulemaking. The following response to the Tennessee Valley Authority's comments is based on all information available at this time.

1. The original data submitted in the petition to list the snail darter as an endangered species could reasonably be read to suggest that the snail darter was a distinct species in danger of extinction throughout its range. Comments received on the FEDERAL REGISTER notice of March 12, 1975, to review the status of the species, in no way suggested otherwise and provided additional evidence to warrant a proposed rulemaking. Subsequent to the proposed rulemaking, we received additional data in the form of an unpublished manuscript, in which the species was described, further substantiating the validity of the snail darter as a distinct species. The manuscript has been reviewed and accepted by a panel of ichthyologists at the Smithsonian Institution, and approved by them for publication in the *Proceedings of the Biological Society in Washington*. The expected publication date of the description of the snail darter is December 1975, or January 1976.

The Fish and Wildlife Service is proceeding with the formal listing of the snail darter, *Percina* (*Imostoma*) sp., as an endangered species because biological evidence indicates that it is a valid species in danger of extinction. The Service acknowledges the lack of a published formal description of the snail darter with the designation of a name-bearing holotype at this time. The Service also recognizes the fact that the snail darter is a living entity which is genetically distinct and reproductively isolated from other fishes. Section 3 (11) of that Act states that "the term 'species' includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature". The weight of scientific opinion recognizes the snail darter as a distinct species. To delay its listing as endangered until the formalities of a species description and its publication are completed would thwart the purpose of the Endangered Species Act.

2. More than 1,000 collections in recent years and additional earlier collections from central and east Tennessee have not revealed the presence of the snail darter outside the Little Tennessee River. The TVA has conducted numerous fish population studies throughout the Tennessee River Basin since the 1930's, and none of these studies apparently

yielded specimens of the snail darter. The snail darter was probably more widespread prior to the impoundment of most of the large rivers of east Tennessee, but how widespread is uncertain. Despite all efforts to locate additional snail darter populations in rivers and creeks other than the Little Tennessee River, to date there have been no reported findings.

The Tellico Project, now under construction, would completely inundate the entire range and only known established population of the snail darter. The sponsoring agency offers only opinion rather than specific scientific evidence that the snail darter has been found to exist elsewhere. The agency does not deny that the Tellico project will completely inundate the habitat of the only known established population of the fish.

3. The purposes of the Endangered Species Act of 1973 as stated in Section 2(b) are "to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species * * *". The TVA has formulated and begun to implement a program in which snail darters are being transplanted from the Little Tennessee River into the Hiwassee that there may be biological and other River. That the snail darter does not already inhabit the Hiwassee River, despite the fact that the fish has had access to it in the past, is a strong indication that there may be biological and other factors in this river that negate a successful transplant. In addition, the TVA has presented us with little evidence that they have carefully studied the Hiwassee to determine whether or not these biological and other factors exist. The TVA program also does not provide for the conservation of the ecosystem upon which the only known established population of snail darter depends.

4. The TVA's Tellico Project Environmental Impact Statement was finalized prior to the passage of the Endangered Species Act of 1973. While the Statement did include a discussion of the endangered species which might occur in the project area, the snail darter was not discovered until the fall of 1973 and thus was not included in the discussion of endangered species in the Environmental Impact Statement. Also, all litigation of the Tellico project occurred prior to the discovery of the snail darter. In light of the above, we have no evidence to indicate that the Tennessee Valley Authority has given adequate consideration to the snail darter with respect to the Tellico project.

The Service is aware of the Congressional authorization of the Tellico project. In section 2(a) of the Endangered Species Act of 1973, Congress did find and declare that * * * "(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as a consequence of economic growth and development untempered by adequate concern and conservation * * *". The intent of Congress was to insure that endangered and threatened species are conserved, by responsibly integrating the well-being of such species into all Federal actions that could affect them and providing a means whereby such species can continue to exist. This was specified in Section 2(c) of the Act, which states that "* * * it is further declared to be the policy of Congress that all Federal departments and agencies shall utilize their authorities in furtherance of the purposes of this Act". Section 7 of the Act further delineates the responsibilities of all Federal departments and agencies in implementing the Endangered Species Act of 1973.

The Director has considered the above comments as well as the evidence accompanying such comments. The Director has also considered other information obtained by the Service, both before and after the proposed rulemaking. Taken together, the evidence as a whole indicates that the snail darter of the Little Tennessee River should indeed be listed as an endangered species for the reasons discussed hereafter.

Discussion. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. § 1533(a)(1)) establishes the following criteria for determining whether a species should be listed as an endangered species:

(1) The present or threatened destruction, modification, or curtailment of its habitat or range;

(2) Overutilization for commercial, sporting, scientific or educational purposes;

(3) Disease or predation;

(4) The inadequacy of existing regulatory mechanisms; or

(5) Other natural or manmade factors affecting its continued existence.

Specifically, with regard to the snail darter, present evidence suggests that only condition (1) is pertinent. Major factors affecting this condition include, but are not limited to, the following:

1. The present or threatened destruction, modification, or curtailment of its habitat or range. The snail darter *Percina (Imostoma)* sp. is known only from portions of gravel shoals in the main channel of the Little Tennessee River between River Miles 4 and 17 in Loudon County, Tennessee. River Miles 4 and 17 are shown on a map entitled "Tellico Project," prepared by the Tennessee Valley Authority (TVA), Bureau of Water Control Planning, August 1965 (map 65–MS–453 K 501). River Mile 17 is 2 river miles below the U.S. Highway 411 bridge over the Little Tennessee River, and is near Rose Island; River Mile 4 is 1½ miles below Davis Ferry.

In this area the snail darter occurs only in the swifter portions of shoals over clean gravel substrate in cool, low-turbidity water. Food of the snail darter is almost exclusively snails which require a clean gravel substrate for their survival. The proposed impoundment of water behind the proposed Tellico Dam would result in total destruction of the snail darter's habitat.

2. Overutilization for commercial, sporting, scientific, or educational purposes. Not applicable.

3. Disease or predation. Not applicable.

4. The inadequacy of existing regulatory mechanisms. Not applicable.

5. Other natural or manmade factors affecting its continued existence. Not applicable.

For the reasons stated above, it is hereby determined that the snail darter (*Percina (Imostoma)* sp.) is an endangered species within the meaning of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

Accordingly, Part 17 of Chapter I, Title 50, Code of Federal Regulations, is amended as set forth below, and will be effective on November 10, 1975.

Dated: October 6, 1975.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

1. Amend Section 17.11(i) by adding the following to the list of "Fishes," after the entry for "Darter, Okaloosa; *Etheostoma, okaloosae*":

§ 17.11 Endangered and threatened wildlife.

* * * * *

(i) * * *

Species			Range				
Common Name	Scientific Name	Population	Known Distribution	Portion of Range where Threatened or Endangered	Status	When Listed	Special Rules
FISHES							
*	*	*	*	*	*		*
Darter, snail	*Percina (Imostoma)* sp.	n.s.	U.S.A.: Little Tennessee River, Loudon County, Tennessee.	Entire.	E.	12	n.s.
*	*	*	*	*	*		*

2. Add footnote 12 to read:

[12] 40 FR 47506; October 9, 1975.

[FR Doc.75-27171 Filed 10-8-75;8:45 am]

PART 32—HUNTING

National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on November 1, 1975.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Hunting of geese, ducks, and coots on the Wheeler National Wildlife Refuge, Alabama, is suspended for the 1975–76 season due to a serious decline in numbers of wintering geese in the refuge area.

FLORIDA

CHASSAHOWITZKA NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Chassahowitzka National Wildlife Refuge, Florida, is permitted only on the area designated by signs as open to hunting. The open area, comprising 2,500 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of ducks and coots subject to the following special conditions:

(1) *Open Season:* Hunting will be permitted only on Wednesdays through Sundays during the regular waterfowl season.

(2) *Daily Bag Limits:* Same as prescribed by State and Federal regulations.

(3) *Permits:* A National Wildlife Refuge Hunting Permit is required for all persons hunting in the area. Permit may be obtained by appearing in person at refuge headquarters at 8 a.m. to 4:30 p.m., Monday through Friday or by mail.

(4) *Juveniles:* Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(5) *Entry:* Hunters must follow the routes of travel within the refuge that are designated by posting by the officer-in-charge. The routes of travel for airboats to and from the public hunting area are shown on a map available at refuge headquarters. While traveling to and from the hunting area, hunters must have guns unloaded and cased.

(6) *Blinds:* Only temporary blinds constructed of native vegetation are permitted.

(7) *Dogs:* The use of dogs is encouraged to retrieve dead and wounded birds. Dogs must be under control at all times.

(8) *Airboats:* A Federal permit is required for the use of airboats on the area. Airboats must be equipped with an exhaust muffler. Airboat permits may be obtained by applying in person at refuge headquarters, 4½ miles south of Homosassa Springs, Florida, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

(9) Decoys will be retrieved by owners at the end of each day's hunt.

(10) Boats and hunting equipment and all game bagged will be presented for inspection to refuge agents or other wildlife enforcement officers upon request.

LOXAHATCHEE NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on Loxahatchee National Wildlife Refuge, Florida, is permitted only on the area designated by signs as open to hunting. This open area, comprising 29,000 acres, is delineated on a map available at the refuge headquarters, Boynton Beach, Florida, and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots and subject to the following special conditions:

(1) *Daily Bag Limits:* See State regulations. Note: Only ducks and coots may be taken on the refuge.

(2) *Open Season:* See State regulations.

(3) *Daily Shooting Hours:* One-half hour before sunrise to sunset.

(4) All hunters must possess a refuge permit to hunt on Loxahatchee National Wildlife Refuge. This permit is available at refuge headquarters. Mail requests will be honored until the opening of the waterfowl hunting season.

(5) All air-thrust boat operators must possess a valid refuge permit for operating on Loxahatchee Refugee. This permit is available at refuge headquarters.

(6) *Entry to Refuge:* Hunters are required to enter and leave the refuge from the headquarters landing or the S-39 landing (Loxahatchee Recreation Area). Air-thrust boats may be launched at the headquarters landing only. Use of the refuge is limited to the hours from one and one-half hours before sunrise to one hour after sunset. Hunters must use the designated routes of travel to and from the hunting area. These routes are those portions of Canal 40 and Canal 39 (Hillsboro Canal) immediately east and south of the hunting area. The refuge marsh near headquarters and S-39 landing lying between the hunting area and said portions of the above canals may also be used for travel. No hunting is permitted in these canals or the marsh off-sets.

(7) *Firearms:* Ducks and coots may be taken only by shotguns ten gauge or smaller. All other types of firearms are prohibited year-round. The possession or use of shotgun shells with larger than No. 4 shot is prohibited. Hunters must carry unloaded shotguns that are dismantled or cased over the routes stated under Item 6 in travelling to and from the hunting area.

(8) *Hunting Dogs:* Hunters are permitted to use dogs for the purpose of retrieving dead or wounded birds.

(9) *All Boats:* For safety reasons all boats must display a light when travelling to and from the hunting area when travelling in darkness. All boats operating within the public hunting area are required to fly a flag 12" by 12" ten feet above the bottom of the boat.

(10) *Blinds:* Only temporary blinds constructed of native vegetation are permitted.

(11) *Posted Areas:* The public hunting area has been designated by red signs with black lettering. Other signs designate closed areas.

(12) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

MERRITT ISLAND NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Merritt Island National Wildlife Refuge, Florida, is permitted only on the areas designated by signs as open to hunting. These open areas are delineated on a map available at the refuge headquarters, Merritt Island National Wildlife Refuge, Florida and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special conditions:

(1) Hunting is allowed Wednesday through Sunday during the State waterfowl season except no hunting on Christmas Day.

(2) Shooting hours are from legal starting time until noon.

(3) Use of steel (iron) shot is required in hunt areas 1 and 4. Possession of lead shot is prohibited in areas 1 and 4.

(4) Shooting within 10 feet of any refuge dike or road (except in Area 1) is prohibited.

(5) Air-thrust boats are not permitted on the refuge.

(6) Hunting from permanent blinds is prohibited in Areas 2, 3 and 4.

(7) Hunters under 18 years of age must be accompanied by an individual 21 years of age or older.

(8) No overnight camping is allowed.

(9) A general refuge hunting permit is required and must be carried on the hunter's person at all times.

PUBLIC HUNTING AREA NO. 1

(1) A certificate showing successful completion of the Florida Game and Fresh Water Fish Commission's Hunter Safety Course is required.

(2) Hunting is from established blinds only and a daily permit is required. See hunting and permit information available at Refuge Headquarters.

(3) Hunters must have a boat and/or retriever to apply for this area.

(4) Steel (iron) shot is required.

PUBLIC HUNTING AREA NO. 2

(1) A maximum of 200 permits will be issued daily throughout the season. See hunting and permit information available at the Refuge Headquarters for specifics on drawing.

(2) No shooting is permitted from or across the railroad right-of-way or any paved road.

(3) Area south of the railroad track is closed to hunting.

PUBLIC HUNTING AREA NO. 3

(1) Access is permitted by using designated dikes and/or by boat only.

PUBLIC HUNTING AREA NO. 4

(1) A certificate showing successful completion of the Florida Game and Fresh Water Fish Commission's Hunter Safety Course is required.

(2) A maximum of 100 permits will be issued daily throughout the season. See hunting and permit information available at the Refuge Headquarters for specifics on drawing.

(3) Vehicles are prohibited from traveling on any dikes and must park in designated areas.

(4) Steel (iron) shot is required.

GEORGIA

EUFAULA NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Eufaula National Wildlife Refuge, Georgia, is permitted only on the area designated by signs as open to hunting. This open area, comprising 770 acres, is delineated on a map available at the refuge headquarters, Eufaula, Alabama, and from the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots subject to the following special conditions:

(1) Hunting will be permitted only on Saturdays. Hunting hours will be from one-half hour before sunrise to 11:30 a.m. during the waterfowl season.

(2) Hunters must hunt only from designated blinds provided and located by refuge personnel. Shooting is not permitted outside of designated blind zone.

(3) Guns must be unloaded while being transported on the refuge and while being carried to and from the blinds.

(4) Each hunter is limited to one box of 12-gauge shells in his possession. Only shells containing steel shot will be permitted and these may be purchased at the check-in station at cost.

(5) Hunters are required to check in and out of the hunt area and must present all bagged game for inspection.

(6) A refuge permit is required. A blind fee of $6 per blind will be charged at the time the permits are issued prior to each day's hunt.

(7) Applications for reservations for refuge permits must be received by the Refuge Manager, Eufaula Refuge, Eufaula, Alabama, prior to 12 noon, Friday, October 31, 1975. Successful applicants will be determined by an impartial drawing on Monday, November 3, 1975.

(8) Hunters under 17 years of age must be accompanied by an adult 21 years of age or older.

(9) Blind reservations are nontransferable.

SAVANNAH NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, and snipe on the Savannah National Wildlife Refuge, Georgia, is permitted only on the area delineated on the Public Hunt Area map which is available at the refuge headquarters, Hardeeville, South Carolina, and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, coots, and snipe, subject to the following conditions:

(1) Daily bag limits are the same as State regulations for ducks, coots, and snipe. Hunters are cautioned against killing, shooting at, or molesting any species of wildlife other than those listed.

(2) Hunting will be permitted only on Thursday, Friday, and Saturday, from one-half hour before sunrise to 12 o'clock noon during the season set by State regulations. Note: Snipe season opens at different dates than ducks and coots but will close on the refuge on the same date.

(3) Hunting will not be permitted in or on Front, Middle, and Back Rivers, nor closer than 50 yards to the shoreline of these rivers.

(4) Hunters will not be permitted to enter the hunting area sooner than one and one-half hours before sunrise.

(5) Guns must be unloaded while being carried to and from the hunting area. Shot size larger than number 4 will not be permitted on the refuge.

(6) Only temporary blinds constructed of native materials are permitted. Hunters must build their own blinds and furnish their own boats and decoys.

(7) Dogs used to retrieve waterfowl must be under control at all times.

(8) Season permits *must* be carried on person while hunting. Permits may be obtained in person from the refuge manager or by mailing an application to refuge headquarters.

(9) Hunting questionnaire must be completed and returned to Refuge Manager, Savannah National Wildlife Refuge, within 30 days following the end of the season. Failure to comply may result in suspension of future hunting privileges.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

LOUISIANA

LACASSINE NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots is permitted only on the area designated by signs as open to hunting. The open area comprises 6,400 acres and is delineated on a map available at the refuge headqurters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable Federal and State regulations subject to the following special conditions:

(1) All hunters must have a Federal refuge hunting permit in their possession in order to hunt on the refuge. Permits will be issued from October 15 on through the entire duck hunting season.

(2) Hunting is restricted to 12 gauge shotguns and iron shot shells only. No lead shot shell or other gauge shotguns will be permitted on the refuge. Iron shot shells will be available at the hunt area. No limit on quantity.

(3) *Hunting Season:* November 1 to 30, 1975, and December 11, 1975, to January 3, 1976. Hunting permitted five half-days per week, Wednesday through Sunday. No hunting on Mondays or Tuesdays, and no hunting on December 25.

(4) *Shooting Hours:* One half-hour before sunrise until 11 a.m. Hunters may enter the hunting area two hours before legal shooting time and must depart the refuge by 12 noon.

(5) Hunting is restricted to ducks, geese, and coots. No other species of birds, mammals, or reptiles may be shot or taken on the refuge.

(6) Hunters under 17 years of age must be accompanied by a responsible adult. No more than two youth hunters per each adult hunter will be permitted.

(7) Hunting parties may not blind-up and hunt closer than 100 yards apart. The first hunter(s) at a pond or blind site are the holders of that site until they complete their hunt; other parties must move away from them at least 100 yards.

(8) Firearms must be encased or dismantled when carried in transit through refuge canals.

(9) Temporary blinds made of native vegetation are permitted but they may *not* contain boards, lumber, poles or wire. Portable blinds may be carried in for each hunt.

(10) Use of retriever dogs is permitted and encouraged, but they must be under control of hunter at all times.

(11) Livestock, furbearers, and trapping equipment present in the hunting areas shall not be molested or disturbed by hunters.

(12) Hunters must station themselves a minimum of 50 yards inland from refuge canals.

(13) Running lights are required on all boats using refuge canals before sunrise. Life jackets must be *worn* by all juvenile hunters while travelling on refuge waters.

SABINE NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Sabine National Wildlife Refuge is permitted only in areas designated by signs as open to hunting. These areas, comprising approximately 10,000 acres, are delineated on a map available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Waterfowl hunting shall be in accordance with all applicable State and Federal regulations including the following special conditions:

(1) All hunters must have a Federal refuge hunting permit in their possession in order to hunt on the refuge. Permits will be issued from October 15 through the duck hunting season.

(2) Hunting is restricted to 12 gauge shotguns and iron shot shells only. *No* lead shot shell or other gauge shotguns will be permitted on the refuge. Iron shot shells will be available for sale at the hunt area. No limit on quantity.

(3) *Hunting Season:* November 1 to 30, 1975, and December 11, 1975 to January 3, 1976. Hunting permitted five half-days per week, Wednesday through Sunday. No hunting on Mondays or Tues-

days, and no hunting on December 25.

(4) *Shooting Hours:* One-half hour before sunrise until 11 a.m. Hunters may enter the hunting area two hours before legal shooting time and must depart the refuge by 12 noon.

(5) Hunting is restricted to ducks, geese, and coots. No other species of birds, mammals, or reptiles may be shot or taken on the refuge.

(6) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

(7) Hunting parties may not blind-up and hunt closer than 100 yards apart. The first hunter(s) at a pond or blind site are the holders of that site until they complete their hunt; other parties must move away from them at least 100 yards.

(8) Firearms must be encased or dismantled when carried in transit through refuge canals.

(9) Temporary blinds made of native vegetation are permitted, but they may *not* contain boards, lumber, poles or wire. Portable blinds may be carried in for each hunt.

(10) Use of retriever dogs is permitted and encouraged, but they must be under control at all times.

(11) Livestock, furbearers, and trapping equipment present in the hunting areas shall not be molested or disturbed.

(12) Hunters must station themselves a minimum of 50 yards inland from refuge canals.

(13) Running lights are required on all boats using refuge canals before sunrise. Life jackets must be *worn* by all juvenile hunters while travelling on refuge waters.

(14) Hunters are required to show any waterfowl bagged to one of the refuge agents before leaving the area and must complete a questionnaire.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Noxubee National Wildlife Refuge, Mississippi, is permitted only on the area designated by signs as open to hunting. The open area of 520 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of ducks and coots subject to the following special conditions:

(1) Hunting will be permitted only on Mondays, Wednesdays and Saturdays from one-half hour before sunrise to 12 noon during the periods December 6, 1975 through January 20, 1976.

(2) The use of boats with electric motors is permitted within the hunting area.

(3) The construction of blinds is not permitted.

(4) Hunters will not be permitted to enter the hunting area sooner that 45 minutes before legal shooting hours.

(5) No hunter may take more than 16 shotgun shells into the hunting area.

(6) No shooting will be permitted from the levee or the open water area immediately adjacent to the levee.

(7) All hunters are required to check in and out at the designated check station.

(8) Lead shot may not be used in the waterfowl hunting area. Iron shot shells will be available for purchase at the check station.

(9) Permit required. A limited number of permits will be available. Applications will be accepted by mail or in person at the refuge office during the period October 1–31, 1975.

(10) Each hunter under age 17 must be under the close supervision of an adult. For safety reasons, the ratio should be one adult to one juvenile but in no case should one adult have more than two juveniles under his/her supervision.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Mattamuskeet National Wildlife Refuge, North Carolina, is suspended during the 1975–76 waterfowl hunting season owing to the continued serious decline of Canada geese wintering in the Mattamuskeet area.

OCTOBER 1, 1975.

ROY R. VAUGHN,
Acting Regional Director.

[FR Doc.75-27141 Filed 10-8-75;8:45 am]

PART 33—SPORT FISHING

Medicine Lake National Wildlife Refuge, Mont.

The following special regulation is issued and is effective on October 9, 1975.

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

MONTANA

MEDICINE LAKE NATIONAL WILDLIFE REFUGE

Sport fishing by rod, reel, pole and set lines, including use of live bait on the Medicine Lake National Wildlife Refuge, Medicine Lake, Montana, is permitted on all of Medicine Lake from December 1, 1975, through March 31, 1976, inclusive. Sport fishing is permitted from June 15, through September 15, 1976, inclusive, but only on the area designated by signs as open to fishing. This open area comprises 800 acres and is delineated on maps available at refuge headquarters, 3 miles southeast of Medicine Lake, Montana 59247 and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver, Colorado 80225. Sport fishing shall be in accordance with all applicable State Regulations.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through March 31, 1976.

JAY R. BELLINGER,
Refuge Manager, Medicine Lake National Wildlife Refuge, Medicine Lake, Montana 59247.

OCTOBER 3, 1975.

[FR Doc.75-27142 Filed 10-8-75;8:45 am]

PART 81—CONSERVATION OF ENDANGERED AND THREATENED SPECIES OF FISH, WILDLIFE, AND PLANTS—COOPERATION WITH THE STATES

Applications for Financial Assistance

OCTOBER 2, 1975.

On April 28, 1975, a notice of proposed rulemaking was published in the FEDERAL REGISTER (40 FR 18447) to formalize procedures governing applications by States for Federal financial assistance under Section 6, "Cooperation with the States," of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

Forty-five days were given within which any person wishing to do so could file written comments, suggestions or objections pertaining to the proposed regulations with the Director, U.S. Fish and Wildlife Service. All comments with respect to the proposed revision were given due consideration.

Thirty-one comments were received from 27 States and four other agencies. Seventeen States and one agency had no objection to the proposed rulemaking as written. With one exception, the remaining comments received relevant to the proposed regulations were for changes that would depart from the clear meaning of the Act.

After consideration of all relevant material presented by interested persons, the proposed rulemaking is hereby adopted as final regulations, subject to the following change set forth below:

1. The word "of" is added in § 81.3 (d) following the word "share" to correct an omission.

Accordingly, 50 CFR Part 81 is revised as set forth below.

Effective date. This regulation shall be effective on October 9, 1975.

Signed at Washington, D.C. on October 1, 1975.

F. V. SCHMIDT,
Acting Director, U.S. Fish and Wildlife Service.

Sec.
81.1 Definitions.
81.2 Cooperation with the States.
81.3 Cooperative Agreement.
81.4 Allocation of funds.
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81.6 Project Agreement.
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81.12 Contracts.
81.13 Inspection.
81.14 Comprehensive plan alternative.

AUTHORITY: Endangered Species Act of 1973, section 6(h), 87 Stat. 884, 16 U.S.C. 1531-43, Pub. L. 93-205.

§ 81.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Agreements.* Signed documented statements of the actions to be taken by the State(s) and the Secretary in furthering the purposes of the Act. They include:

(1) A Cooperative Agreement entered into pursuant to section 6(c) of the Endangered Species Act of 1973 and containing provisions found in section 6(d)(2) of the Act.

(2) A Project Agreement which includes a statement as to the actions to be taken in connection with the conservation of endangered or threatened species, benefits derived, cost of actions, and costs to be borne by the Federal Government and by the States.

(b) *Conserve, conserving, and conservation.* The use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Endangered Species Act of 1973 are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(c) *Endangered species.* Any species which is in danger of extinction throughout all or a significant portion of its range (other than a species of the Class Insecta as determined by the Secretary to constitute a pest whose protection under the provisions of The Endangered Species Act of 1973 would present an overwhelming and overriding risk to man).

(d) *Fish or wildlife.* Any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(e) *Plant.* Any member of the plant kingdom, including seeds, roots, and other parts thereof.

(f) *Program.* A State-developed plan for the conservation and management of all species of fish and wildlife that exist in the wild in that State during any part of their life which are endangered or threatened, which includes goals, objectives, strategies, action, and funding necessary to be taken to accomplish the objectives on an individual basis.

(g) *Secretary.* The Secretary of the Interior or his authorized representative.

(h) *Species.* This term includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(i) *State.* Any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(j) *State agency.* The State agency or agencies, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish or wildlife resources within a State.

(k) *Threatened species.* Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, as determined by the Secretary.

(l) *Project.* A subsantial undertaking to conserve the various species of fish or wildlife and plants facing extinction.

(m) *Act.* The Endangered Species Act of 1973, Pub. L. 93-205, 16 U.S.C. 1531 et seq.

(n) *Project segment.* An essential part or a division of a project, usually separated as a period of time, occasionally as a unit of work.

(o) *Resident species.* For the purposes of the Endangered Species Act of 1973, a species is resident in a State if it exists in the wild in that State during any part of its life.

§ 81.2 Cooperation with the States.

The Secretary is authorized by the Act to cooperate with any State which establishes and maintains an adequate and active program for the conservation of endangered and threatened species. In order for a State program to be deemed an adequate and active program, the Secretary must find and reconfirm, on an annual basis, that:

(a) Authority resides in the State agency to conserve resident species of fish and wildlife determined by the State agency or the Secretary to be endangered or threatened;

(b) The State agency has established an acceptable conservation program, consistent with the purposes and policies of the Act, for all resident species of fish and wildlife in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(c) The State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife;

(d) The State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered or threatened species; and

(e) Provisions are made for public participation in designating resident species of fish and wildlife as endangered or threatened.

§ 81.3 Cooperative Agreement.

Upon determination by the Secretary that a State program is adequate and active, the Secretary shall enter into an Agreement with the State. A Cooperative Agreement is necessary before a Project Agreement can be approved for endangered or threatened species projects. It must be reconfirmed annually to reflect new laws, species lists, rules or regulations, and programs, and to demonstrate that the program is still active and adequate. Further, such agreement must contain:

(a) The actions that are to be taken by the Secretary and the State;

(b) The benefits that are expected to be derived in connection with the conservation of endangered or threatened species;

(c) The estimated cost of these actions; and

(d) The share of such costs to be borne by the Federal Government and by the State.

§ 81.4 Allocation of funds.

The Secretary shall allocate funds, appropriated for the purpose of carrying out Section 6, to various State programs using the following as the basis for his determination:

(a) The international commitments of the United States to protect endangered or threatened species;

(b) The readiness of a State to proceed with a conservation program consistent with the objectives and purposes of the Act;

(c) The number of endangered and threatened species within a State;

(d) The potential for restoring endangered and threatened species within a State; and

(e) The relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of survival of the species.

§ 81.5 Information for the Secretary.

Before any Federal funds may be obligated for any project to be undertaken in a State, the State must have entered into a Cooperative Agreement with the Secretary pursuant to Section 6(c) of the Act.

§ 81.6 Project Agreement.

(a) Subsequent to the establishment of a Cooperative Agreement pursuant to § 81.3, the Secretary may further agree with the States to provide financial assistance in the development and implementation of acceptable projects for the conservation of endangered and threatened species. Financial agreements will consist of an Application for Federal Assistance and a Project Agreement. Such agreements' continued existence, and continued financial assistance under such agreements, shall be contingent upon the continued existence of the Cooperative Agreement described in § 81.3, above.

(b) The Application for Federal Assistance will show the need for the project, the objectives, the expected benefits and results, the approach, the period of

time necessary to accomplish the objectives, and both the Federal and State costs.

(c) To meet the requirements of the Act, the Application for Federal Assistance shall certify that the State agency submitting the project is committed to its execution and that it has been reviewed by the appropriate State officials and is in compliance with other requirements of the Office of Management and Budget Circular No. A-95 (as revised).

(d) The Project Agreement will follow approval of the Application for Federal Assistance by the Secretary. The mutual obligations by the cooperating agencies will be shown in this agreement executed between the State and the Secretary. An agreement shall cover the financing proposed in one project segment and the work items described in the documents supporting it.

(e) The form and content for both the Application for Federal Assistance and the Project Agreement are provided in the Federal Aid Manual.

§ 81.7 Availability of funds.

Funds allocated to a State are available for obligation during the fiscal year for which they are allocated and until the close of the succeeding fiscal year. For the purpose of this section, obligation of allocated funds occurs when a Project Agreement is signed by the Secretary, or his authorized representative, attesting to his approval.

§ 81.8 Payments.

The payment of the Federal share of costs incurred in the conduct of activities included under a Project Agreement shall be in accordance with Treasury Circular 1075.

(a) Federal payments under the Act shall not exceed 66⅔ percent of the program costs as stated in the agreement; except, the Federal share may be increased to 75 percent when two or more States having a common interest in one or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such States, enter jointly into an agreement with the Secretary.

(b) The State share of program costs may be in the form of cash or in-kind contributions, including real property, subject to standards established by the Secretary as provided in Federal Management Circular 74-7.

(c) Payments under the Endangered Species Act, including such preliminary costs and expenses as may be incurred in connection with projects, shall not be made unless all documents that may be necessary or required in the administration of this Act shall have first been submitted to and approved by the Secretary. Payments shall be made for expenditures reported and certified by the State agencies. Payments shall be made only to the State office or official designated by the State agency and authorized under the laws of the State to receive public funds of the State.

(d) Vouchers and forms provided by the Secretary and certified as therein prescribed, showing amounts expended and the amount of Federal Aid funds claimed to be due on account thereof, shall be submitted to the Secretary by the State agency.

§ 81.9 Assurances.

The State must assure and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds for projects under the Act in accordance with Federal Management Circular 74-7.

§ 81.10 Submission of documents.

Papers and documents required by the Act or by regulations in this part shall be deemed submitted to the Secretary from the date of receipt by the Director of the U.S. Fish and Wildlife Service.

§ 81.11 Divergent opinions over project merits.

Any difference of opinion about the substantiality of a proposed project or appraised value of land to be acquired are considered by qualified representatives of the Secretary and the State. Final determination in the event of continued disagreement rests with the Secretary.

§ 81.12 Contracts.

The State may use its own regulations in obtaining services providing that they adhere to Federal laws and the requirements provided by Federal Management Circular 74-7. The State is the responsible authority without recourse to the Secretary regarding settlement of contractual issues.

§ 81.13 Inspection.

Supervision of each project by the State shall include adequate and continuous inspection. The project will be subject to periodic Federal inspection.

§ 81.14 Comprehensive plan alternative.

In the event that the State elects to operate under a comprehensive fish and wildlife resource planning system, the Cooperative Agreement will be an attachment to the plan. No Application for Federal Assistance will be required since the documentation will be incorporated in the plan. However, the continued existence of the comprehensive plan, and Federal financing thereunder, will be contingent upon the continued existence of the Cooperative Agreement described in § 81.3, above.

[FR Doc.75-27143 Filed 10-8-75;8:45 am]

Title 4—Accounts

CHAPTER I—GENERAL ACCOUNTING OFFICE

SUBCHAPTER D—TRANSPORTATION

TRANSPORTATION SERVICES FOR THE ACCOUNT OF THE UNITED STATES

Payments to Carriers and Forwarders

Public Law 93-604 authorized the transfer from the General Accounting Office to the General Services Administration of the function of auditing and adjusting payments to carriers and forwarders furnishing transportation services for the account of the United States Government. The Comptroller General has determined that it is appropriate that responsibility for prescribing uniform procedures and forms for accounting for such payments be assumed by the General Services Administration, as an integral part of the responsibility for performing the audit. This determination results in the elimination of parts 51, 52, 53 and 54, except portions relating to statutory provisions vesting in the Comptroller General discretionary functions and to matters requiring uniform fiscal standards. New regulations pertaining to review of transportation settlements are being promulgated.

The regulatory material heretofore contained in Parts 51, 52, 53 and 54 will be published, to the extent to be continued, by the General Services Administration as a part of the Federal Property Management Regulations in Title 41 of the Code of Federal Regulations.

Accordingly, effective October 12, 1975, Parts 51, 52, 53, 54 and 55 are revoked, and new Parts 51, 52 and 53 are promulgated as follows:

PART 51—DETERMINATIONS

Sec.
51.1 Scope of part.
51.2 Standard forms and procedures.

AUTHORITY: 42 Stat. 25, as amended; 31 U.S.C. 52. Interpret or apply sec. 112, 64 Stat 835; 31 U.S.C. 66.

§ 51.1 Scope of part.

This part contains basic determinations by the Comptroller General as to the extent he deems it necessary to continue or discontinue to exercise the authority to prescribe forms and uniform procedures provided in section 309, 42 Stat. 25, 31 U.S.C. 49.

§ 51.2 Standard forms and procedures.

It is determined that the prescribing of standard forms and procedures pertaining to payments for transportation services furnished for the account of the United States is so closely related to the audit of such payments and adjustment of claims pertaining thereto that it will generally be unnecessary for this function to be performed in the General Accounting Office upon transfer of the transportation audit to the General Services Administration. Standard forms and procedures may therefore be prescribed by the Administrator, General Services Administration, subject to consultation with the internal organization of the General Accounting Office assigned overview responsibility, except for the uniform standards and procedures necessary to permit performance of the discretionary functions vested by statute in the Comptroller General and other uniform fiscal requirements deemed necessary, as prescribed in part 52.

PART 52—UNIFORM STANDARDS AND PROCEDURES FOR TRANSPORTATION TRANSACTIONS

Sec.
52.1 Scope of part.
52.2 Use of American flag vessels and certificated air carriers.
52.3 Use of travel agencies.

AUTHORITY: Sec. 311, 42 Stat. 25; 31 U.S.C. 52. Interpret or apply sec. 309, 42 Stat. 25; 31 U.S.C. 49 and sec. 112, 64 Stat. 835; 31 U.S.C. 66, unless otherwise noted.

§ 52.1 Scope of part.

This part contains uniform standards and procedures relating to discretionary functions vested by statute in the Comptroller General and to matters requiring uniformity of fiscal practices relating to transportation transactions entered into for the account of the United States Government.

§ 52.2 Use of American flag vessels and certificated air carriers.

(a) *Transportation of passengers.* Section 901 of the Merchant Marine Act of 1936, 46 U.S.C. 1241, requires the use of American flag vessels for travel on official business; and section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. 1517, requires the use of air carriers certificated under section 401 of the Federal Aviation Act of 1958 (American flag) for Government-financed passenger transportation (including but not limited to Government dependents, consultants, grantees, contractors and subcontractors), when such carriers are available. Compliance with section 901 and section 5 is required whether the transportation expenses are paid by the United States or reimbursed to the traveler.

(b) *Transportation of personal effects and freight.* Section 901 of the Merchant Marine Act of 1936, 46 U.S.C. 1241, requires the use of American flag vessels by officers and employees of the United States for the transportation of their personal effects, when such vessels are available, and section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. 1517, requires the use of air carriers certificated under section 401 of the Federal Aviation Act of 1958 (American flag) for any Government-financed movement of freight by air when such air carriers are available.

(c) *Disallowance of expenditures.* The Comptroller General will disallow any expenditures for commercial non-American-flag air or foreign-flag ocean passenger transportation, or for foreign-flag ocean transportation of personal effects or non-American-flag air transportation of freight, unless there is attached to the payment voucher a certificate or memorandum adequately explaining why American-flag service was unavailable signed by the traveler or other responsible official of the agency authorizing the travel or transportation who has knowledge of the facts concerning such usage.

(d) *Required documentation.* Each voucher for reimbursement of expenses for travel in whole or in part via a non-American-flag air or foreign flag ocean carrier, and each bill for payment of transportation services furnished in whole or in part by a non-American-flag air or foreign flag ocean carrier will be supported by the following documentation:

(1) *Required certificate.* The certificate or memorandum required under this part should be substantially as follows:

I certify that it (is) (was) necessary for

(name of traveler or agency)
to use

(foreign-flag vessel(s))

---

or noncertificated* air carrier(s)

---

flight identification No(s).
or to transport (personal effects) (freight) between

--- and
--- en route
from ---
to --- on

(date)
for the following reasons:

Date — Signature of traveler or authorizing officer

Title or position

Organization

*Section 401 of Federal Aviation Act of 1958 (49 U.S.C. 1501).

(2) *Documentation for passenger and freight transportation by American-flag direct air carriers.* All bills submitted by American-flag direct air carriers for payment for commercial foreign air passenger or freight transportation must contain either: (i) a certification by the carrier that no non-American-flag air carriers were used in the carriage of the passenger or freight or (ii) copies of documents required to be retained by the carrier under 14 CFR Part 249 that would indicate which portion of the through movement was performed by American-flag and non-American-flag air carriers, together with the certificate required in paragraph (d)(1) of this part covering such usage.

(3) *Documentation by indirect air carriers.* All bills submitted by indirect air carriers as defined in 14 CFR 296.1 and 297.1 for the payment of transportation charges for the movement of freight by air must be supported by a copy of the air waybill and manifest required to be executed by 14 CFR 296.70 and 297.51.

(e) *Responsibility of carrier to secure certificate.* The certificate or memorandum required under paragraph (d)(1) must be obtained by the ocean or air carrier or freight forwarder and submitted as support in billing charges for transportation services.

(f) *Responsibility of accountable officers.* Certifying officers and military disbursing officers have the responsibility in the first instance of determining the accuracy and acceptability of the certification or memorandum and other documentation required in paragraph (d) of this section which must be attached to bills involving transportation by non-American-flag air carriers and foreign-flag vessels prior to the certification of such bills. When there is doubt as to the acceptability of the certification, accountable officers or the head of the agency involved may request an advance decision by addressing a submission to the Comptroller General of the United States, U.S. General Accounting Office, Washington, D.C. 20548.

(g) *Responsibility of General Services Administration.* In auditing vouchers for payment of transportation charges to carriers and forwarders, the General Services Administration will ascertain that payments involving the use of a non-American-flag vessel or air carrier are supported by the required certificate or memorandum and documentation required in paragraph (d) of this section justifying such use. When there is doubt as to the accuracy or acceptability of any justification, the matter will be referred to the Comptroller General for decision.

(42 Stat. 25; 31 U.S.C. 52. Interpret or apply sec. 112, 64 Stat. 835; 31 U.S.C. 66; sec. 901 (a), 49 Stat. 2015, 46 U.S.C. 1241(a); sec. 5, 88 Stat. 2104, 49 U.S.C. 1517; sec. 8, 28 Stat. 207, as amended, 31 U.S.C. 74)

§ 52.3 Use of travel agencies.

(a) Travel agencies may not be utilized to secure any passenger transportation service (1) within the United States, Canada, or Mexico, (2) between the United States, Canada, or Mexico, (3) from the United States or its possessions to foreign countries, and (4) between the United States and its possessions, and between and within its possessions.

(b) Travel agencies may be used only when authorized under administrative regulations, to secure air, bus, rail, water, or any combined passenger transportation service within foreign countries (except Canada or Mexico); between foreign countries; or from foreign countries to the United States and its possessions; provided:

(1) The request for transportation is made first to a company branch office or a general agent of an American-flag air or ocean carrier if the travel originates in a city or its contiguous carrier-servicing area in which such branch office or general agent is located and through ticketing arrangements for the transportation authorized cannot be secured, or

(2) No company branch office or general agent of an American-flag air or ocean carrier is located in the city or its contiguous carrier-servicing area in which the official travel originated. (Information as to branch offices and general agents of American-flag air and ocean carriers is available at overseas offices of the Department of State.)

(c) No payment is to be made to a travel agency for charges in excess of those which would have been properly chargeable had the requested service been obtained by the traveler direct from the carrier or carriers involved.

PART 53—REVIEW OF GENERAL SERVICES ADMINISTRATION TRANSPORTATION SETTLEMENT ACTIONS

Sec.
53.1 Definitions.
53.2 Actions reviewable by Comptroller General.
53.3 Requests for review.
53.4 Copies to General Services Administration.

AUTHORITY: Secs. 53.1 through 53.4 issued under sec. 311, 42 Stat. 25; 31 U.S.C. 52. Interpret or apply Sec. 322, 54 Stat. 955, as amended, 49 U.S.C. 66(b).

§ 53.1 Definitions.

(a) "Claim" means any bill or demand, including submission of voucher or supplemental bill, for payment of charges for transportation and related services by a carrier or forwarder entitled under 49 U.S.C. 66 to payment for such services prior to audit by the General Services Administration.

(b) "Settlement" means any action taken by the General Services Administration in connection with the audit of payments for transportation and related services furnished for the account of the United States that has a dispositive effect, including:

(1) Deduction action (or refund by carrier) in adjustment of asserted transportation overcharges;

(2) Disallowance of a claim, or supplemental bill, for charges for transportation and related services, either in whole or in part,

(3) Any other action that entails finality of administrative consideration.

§ 53.2 Actions reviewable by Comptroller General.

Actions taken by the General Services Administration on a claim by a carrier or freight forwarder entitled under 49 U.S.C. 66 to be paid for transportation services prior to audit that have dispositive effect and constitute a settlement action as defined in § 53.1 will be reviewed by the Comptroller General, provided request for review of such action is made within six months (not including time of war) from the date such action is taken or within the periods of limitation specified in 49 U.S.C. 66(a), whichever is later.

§ 53.3 Requests for review.

Requests for review of settlement actions by the General Services Administration should be addressed to the Comptroller General of the United States, U.S. General Accounting Office, Washington, D.C. 20548. Each request for review must identify the transaction as to which review is requested by the date the action was taken, the Government bill of lading or Government transportation request number, the carrier's bill number, Government voucher number and date of payment, General Services Administration claim number, or other identifying information, to enable speedy location of the pertinent records. Each request for review should state why the action taken is believed erroneous and specify any factual, technical, or legal basis relied on.

§ 53.4 Copies to General Services Administration.

Review of settlement actions will be expedited if a copy of the document requesting review by the Comptroller General is sent to the General Services Administration to facilitate assembly of the pertinent records.

PART 54—CLAIMS AGAINST THE UNITED STATES RELATING TO TRANSPORTATION SERVICES [REVOKED]

Part 54 is revoked.

PART 55—RECONSIDERATION AND REVIEW OF GENERAL ACCOUNTING OFFICE TRANSPORTATION CLAIMS SETTLEMENTS [REVOKED]

Part 55 is revoked.

ELMER B. STAATS,
Comptroller General of the United States.

[FR Doc.75-27170 Filed 10-8-75;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Transportation

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

Effective on October 9, 1975, § 213.3394 (f)(5) is added as set out below:

§ 213.3394 Department of Transportation.

* * * * *

(f) *Urban Mass Transportation Administration.* * * *

(5) One Special Assistant to the Administrator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218)

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

[FR Doc.75-27248 Filed 10-8-75;8:45 am]

proposed rules

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1301]

CONTROLLED SUBSTANCES

Authorization To Purchase for Vessels

Due to recent form changes by the Public Health Service, and in order to clarify proper handling of the Authorization to Purchase Controlled Substances for Vessels, the Acting Administrator finds it necessary to propose several changes in the regulations regarding the acquisition of controlled substances by ocean vessels.

Therefore, pursuant to Section 301 and 302(d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 822(d)) and under the authority vested in the Attorney General by Sections 301 and 501(b) of the Act (21 U.S.C. 821 and 871(b)), and delegated to the Acting Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Acting Administrator hereby proposes that Part 1301.28(d) of Title 21 of the Code of Federal Regulations be revised to read as follows:

§ 1301.28 Registration regarding ocean vessels.

* * * * *

(d) If no medical officer is employed by the owner or operator of a vessel, or in the event such medical officer is not accessible and the acquisition of controlled substances is required, the master of the vessel, who shall not be registered under the Act, may purchase controlled substances only with the approval of and upon special order from (HSA-590, Authorization to Purchase Controlled Substances for Vessels, formerly HSM-590) provided by a medical officer of the United States Public Health Service. Upon issuance, a copy of each Form HSA-590 will be immediately submitted by the USPHS facility where issued to the Drug Enforcement Administration Regional Office covering the area in which the facility is located. Blank or presigned Form HSA-590 may not be furnished to ships or shipping companies by USPHS.

* * * * *

All interested parties are invited to submit their comments or objections to this proposal in writing. These comments and objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Hearing Clerk, Drug Enforcement Administration, Department of Justice, 1405 Eye Street, N.W., Washington, D.C. 20537 and must be received on or before November 10, 1975.

Dated: September 29, 1975.

HENRY S. DOGIN,
Acting Administrator.

[FR Doc.75-27164 Filed 10-8-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[7 CFR Part 17]

RICE

Sales Under Agricultural Trade Development and Assistance Act; Contracting Requirements

Notice is hereby given that the United States Department of Agriculture is considering an amendment of the contracting requirements with respect to rice under the regulations governing the financing of commercial sales of agricultural commodities made available under Title I of the Agricultural Trade Development and assistance Act of 1954, as amended, 7 U.S.C. 1701-1710 (7 CFR Part 17).

Section 17.7 of these regulations provides that the sales price, agreed to between the supplier of the commodity and the importing country or private trade entity to which a Title I purchase authorization has been issued, must be approved by the United States Department of Agriculture as a condition of eligibility for Commodity Credit Corporation's financing of the sale. Section 17.7 further provides that "The supplier's sales price must not exceed the prevailing range of export market prices as applied to the terms of sale at the time of sale as determined by USDA * * *" and that "If USDA is unable to ascertain the prevailing range of export market prices for a specific commodity, USDA will determine a maximum export market price, representing the top of the range of export market prices, for the commodity * * *." It is provided therein that "the 'time of sale' unless otherwise defined for specific commodities in Appendix A, shall mean the day as of which the sale price is established in or pursuant to the contract between the importer and the supplier or the day of any amendment thereto if such amendment in any manner affects the sales price as determined by USDA."

A revision of paragraph (3) Section H (Contracting Requirements for Rice) of Appendix A to such regulations is being proposed which would set forth in detail the factors to be considered by USDA in the approval of suppliers' sales prices for rice and would adopt a special definition of "time of sale" to be used for the purposes of § 17.7 when an invitation for bids is issued under the terms of a rice purchase authorization.

Statement of Considerations. For most major commodities exported under Title I, Pub. L. 480, prices are established daily in public markets. Such prices reflect actual trading in cash and futures transactions. This information is published and widely disseminated; while all of it does not represent export sales positions, it nevertheless serves as a primary indicator of price trends for export. There are such markets for wheat, feed grains, soybean oil, cotton and other commodities; however, there is no such market for rice. Thus, USDA review of suppliers' sales prices for rice sold under Title I involves somewhat special circumstances, and the approval of suppliers' sales prices may be based upon indicators other than published market prices.

Various problems are encountered in establishing a basis for rice price review. First, there are relatively few exporters of rice compared with exporters of other major Pub. L. 480 commodities. Although about 40 firms participate in the commercial rice export market, ten firms account for about 90 percent of the business. Two firms annually handled from 73 to 99 percent of the Pub. L. 480, Title I rice exports from fiscal year 1968 through fiscal year 1974. Therefore, it is essential that the widest possible range of sources of market information be used for gathering data. Second, little of the type and quality of rice which is normally exported under Title I, Pub. L. 480 ("No. 5, 20% brokens") moves in U.S. commercial channels. However, this type of rice does constitute a large portion of the total U.S. rice exports (concessional sales, such as Pub. L. 480, plus commercial sales). Therefore, Pub. L. 480 sales of such rice could affect the competitive position of U.S. rice in commercial exports. Finally, actual commercial export sales prices are seldom disclosed by the parties concerned.

Compiling export market price information for Title I rice is, then, a complex procedure. This information must be gathered by making regular, direct inquiry among firms representing a broad sample of wholesalers, brokers, millers and exporters. Inquiries to these sources must be made daily to ascertain the prices at which rice is being traded, offered and bid. Such information may need to be supplemented with reports from foreign markets, since these may further indicate the trend of world and U.S. export market prices.

Price Factors. It is believed that the factors considered in the approval of suppliers' sales prices for rice should be set forth in detail in Appendix A to the Regulations and published in the FEDERAL REGISTER in order to inform all those affected by this aspect of the program. It is proposed that USDA will take into consideration available information on domestic and export sales, including offer and bid prices. Factors which may also need to be considered include costs of the raw material; domestic and foreign supply and demand conditions; market premiums and discounts between grades and qualities of rice and degrees of milling; and trends of prices in foreign markets for rice from the U.S. and other countries.

"Time of Sale". It is also proposed that, in cases where an invitation for bids (tender) for rice is issued by the importer under the terms of a Title I purchase authorization, "time of sale" for the purpose of price approval under §17.7 be defined as the closing date and time for submission of bids under the relevant invitation for bids. However, the "date and time of sale" for the purpose of submission of notice of sale and evidence of sale would remain as outlined in "General Modification No. 1 to Appendix B of the Financing Regulations," issued May 30, 1974, which provides that "* * * date and time of sale shall be the date and time a firm sale it made * * *." (Under the provisions of General Modification No. 1, a sale is considered firm "* * * when an agreement on a firm price and the other terms of sale has been reached by the supplier and importer * * *.")

Currently, a supplier determines his bid price, then submits it in accordance with the tender, prior to the tender closing date and time. If his bid is accepted, the price is reviewed as of the time and date of acceptance (that is, when there was a "firm sale" and the supplier and importer agreed on the terms of sale). This must of course fall after the closing date and time for submission of bids.

Thus, under the current definition of "time of sale," if the market is falling faster than the supplier estimated, his bid, made prior to tender closing, might be too high to be approved based on price review as of the time a "firm sale" was made. Conversely, if the market is rising, a supplier may be unwilling to commit himself to a bid price which might be successful under the tender but yet might be considerably lower than the price he could have obtained for the rice at the time the "firm sale" was made.

Changing the definition of "time of sale" for rice sold under invitations for bids will shorten the period of time which elapses between the supplier's setting his bid price and the time which governs price review. This will reduce the amount of market price movement possible between the two times and consequently reduce the risk borne by the supplier; more suppliers may thereby be enabled to participate in Title I sales, maximizing competition.

Another reason for proposing to amend the definition of "time of sale" is that it is customary for price bid information under public tenders to become public knowledge immediately following the public opening of bids and preceding actual contract award. Thus it is possible for the bids themselves to cause market price changes and alter the market price information upon which price review is conducted, under the current definition of "time of sale." This would not be the case if "time of sale" for purpose of USDA price review were the date and time the tender is closed.

All persons who desire to submit written data, views or arguments for consideration in connection with these proposals should file the same in duplicate, not later than October 24, 1975, with the Administrator, Foreign Agricultural Service, Room 5073, South Agriculture Building, 14th and Independence, Washington, D.C. 20250, where they will be available for public inspection during the official hours of business (8:30 a.m. to 5:00 p.m., Monday through Friday). All material received on or before October 24, 1975 will be considered.

It is proposed that, after comments have been received and considered, such amendment will be made effective by publication in the FEDERAL REGISTER without further delay.

It is proposed that the terms of General Modification No. 1 would not supersede those of paragraph (3) of Section H (Contracting Requirements for Rice) of Appendix A to said Regulations, and that said paragraph (3) would be amended to read as follows:

APPENDIX A—CONTRACTING REQUIREMENTS

* * * * *

(H) *Rice, milled and/or brown in bags and/or in bulk:*

* * * * *

(3) *Prices:* For the purpose of price approval under § 17.7:

(a) USDA will take into consideration available information on domestic and export sales, including offer and bid prices, and may consider other factors such as the costs of raw materials, domestic and foreign supply and demand conditions, market premiums and discounts between grades and qualities of rice and degrees of milling, and trends of prices in foreign markets for rice from the U.S. and other countries.

(b) The "time of sale," in cases where an invitation for bids (tender) is issued under the terms of a Title I purchase authorization for rice, shall mean the closing date and time for the submission of bids under the relevant invitation for bids.

Dated: October 7, 1975.

DAVID L. HUME,
Administrator,
Foreign Agricultural Service.

[FR Doc 75-27319 Filed 10-8-75; 8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

NORTH CAROLINA

Proposed Supplements to Approved Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On February 1, 1973, a notice was published in the FEDERAL REGISTER (38 FR 3041) of the approval of the North Carolina plan and adoption of Subpart I of Part 1952 containing the decision and describing the plan. By letters dated October 22, 1974, February 27, 1975, May 2, 1975, and June 25, 1975, from W. C. Creel, North Carolina Commissioner of Labor to Donald E. MacKenzie, Assistant Regional Director, Occupational Safety and Health Administration, the State of North Carolina submitted supplements to its plan involving developmental and State-initiated changes. Following regional review, the supplements were forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for his determination as to whether they should be approved. The supplements are described below.

2. *Description of the supplements.* (a) Compliance Manual. In response to the commitment contained in 29 CFR 1952.-153(j) the State has developed and subsequently revised a Field Operations Manual, "A Manual of Guidelines for Implementing the North Carolina Occupational Safety and Health Act of 1973," for use by its compliance staff.

(b) Inspection Schedule. The North Carolina plan has been revised by amending the State's inspection scheduling protocol. A more general commitment to conduct 1% of inspections in agriculture, 23% in construction, 56% in manufacturing, and 20% in "other," replaces the "first year of operation" goals contained in the original plan.

(c) Voluntary Compliance Program. North Carolina has increased the size of its voluntary compliance staff from six (6) to seven (7) consultants.

3. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Assistant

Regional Director, Occupational Safety and Health Administration, Suite 587, 1375 Peachtree Street, N.E., Atlanta, Geogia 30309; and the Office of the North Carolina Commissioner of Labor, 11 W. Edenton Street, Raleigh, North Carolina 27611.

4. *Public participation.* Interested persons are hereby given until November 10, 1975, in which to submit written data, views and arguments concerning whether the supplements should be approved. Such submissions are to be addressed to the Associate Assistant Secretary for Regional Programs at his address as set forth above where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplements by filing particularized written objections with respect thereto within the time allowed for comments with the Associate Assistant Secretary for Regional Programs. If, in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplements, make appropriate amendments to Subpart I of Part 1952, and initiate further proceedings, if necessary.

Signed at Washington, D.C. this 6th day of October 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-27213 Filed 10-8-75;8:45 am]

[29 CFR Part 1952]

OREGON

Proposed Supplements to Approved Plan

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for the review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, a notice was published in the FEDERAL REGISTER (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D of Part 1952 containing the decision and describing the plan. The notice of Approval of Revised Developmental Schedule was further published on April 1, 1974, in the FEDERAL REGISTER (39 FR 11881). The State of Oregon has submitted five (5) supplements to the plan involving developmental changes to the Seattle Regional Office of the Occupational Safety and Health Administration. Following regional review, the supplements were forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) for his determination as to whether they should be approved. These supplements are described below.

2. *Description of the supplements.* (a) Rules for the Administration of the Oregon Safe Employment Act (hereinafter called OSEA). The State has submitted regulations governing the rights and responsbilities of the Workmen's Compensation Board; consultant services; the adoption, modification, and revocation of standards; enforcement procedures; penalty system; rights and responsibilities of employers and employees; variance procedures; and recordkeeping and reporting procedures (Oregon Administrative Rules, Chapter 436, sections 46-005 to 46-750).

(b) Rules of Practice and Procedure for Contested Cases. The State has submitted regulations concerning the rules of practice and procedures for contested cases under OSEA which describe jurisdiction, filing, service, notice, pleading, settlement and hearing requirements (OAR, Chapter 436, sections 85-005 to 85-915).

(c) Statement of Goals and Objectives. In accordance with 29 CFR 1952.-1008(e) the State has submitted a statement of occupational safety and health goals and objectives.

(d) Compliance Manual. The State has submitted a Field Compliance Manual which is modeled after the Federal Field Operations Manual.

(e) Occupational Health Rules. Oregon has submitted a manual containing the Regulations for the Control of Radiation. Since 1961 the State Board of Health (designated as the Radiation Control Agency) has adopted regulations for control of radiation and carried out a program of licensing and registration of radiation sources, inspecting users of radiation sources, and monitoring radiation in Oregon's environment. The 1971 Legislature, House Bill 1060, reorganized the Radiation Control Agency which became the State Health Division. The old regulations were rewritten in their entirety, and the new regulations were approved by the Radiation Advisory Committee in January 1972. On March 20, 1975, these new regulations were incorporated by reference in a new section 22-020, Chapter 333, of Oregon Administrative Rules and such section was promulgated as a rule of the State Health Division, Occupational Health Section.

3. *Location of the plan and its supplements for inspection and copying.* A copy of the plan and its supplements may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, Room N-3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Office of the Assistant Regional Director, Occupational Safety and Health Administration, Room 6048, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; Workmen's Compensation Board, Labor and Industries Building, Room 204, Salem, Oregon 97310.

4. *Public participation.* Interested persons are hereby given until November 10, 1975, in which to submit written data, views, and arguments concerning whether the supplements should be approved. Such submissions are to be addressed to the Associate Assistant Secretary for Regional Programs, Occupational Safety and Health Administration, Room N-3112, 200 Constitution Avenue, N.W., Washington, D.C. 20210, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplements by filing particularized written objections with respect thereto within the time allowed for comments with the Associate Assistant Secretary for Regional Programs. If, in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall thereafter issue his decision as to approval or disapproval of the supplements, make appropriate amendments to Subpart D of Part 1952, and initiate further proceedings, if necessary.

Signed at Washington, D.C. this 6th day of October 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-27214 Filed 10-8-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 210, 225]

[Docket No. 75N-0056]

MEDICATED FEEDS; CURRENT GOOD MANUFACTURING PRACTICE

Extension of Time for Comments

The Commissioner of Food and Drugs issued in the FEDERAL REGISTER of August 8, 1975 (40 FR 33554) proposed amendments to the regulations describing current good manufacturing practice in the production of medicated animal feeds. Comments were to be filed on or before October 7, 1975.

The Commissioner has received requests for extension of the comment period from: (1) The National Feed Ingredient Association, to permit the preparation of meaningful comments following the Association's annual meeting scheduled for October 5-7, 1975; and (2) the Animal Health Institute (AHI), which asserts that the complexity of the proposal and the extensive changes it would make in the manner of formulation of medicated animal feeds, make it impossible for AHI to develop comprehensive meaningful comments within the allotted 60-day period.

Good reason therefor appearing, the Commissioner hereby extends the period

for filing comments on the subject proposal to close of business November 6, 1975.

Written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the proposal shall be submitted to the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 501, 512, 701(a), 52 Stat. 1049-1050 as amended, 1055, 82 Stat. 343-351 (21 U.S.C. 351, 360b, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 2, 1975.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.75-27107 Filed 10-8-75;8:45 am]

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 413]

HISTORICAL DEPRECIATION COSTS FOR INFLATION

Adjustment

Notice is hereby given that the Cost Accounting Standards Board is considering the promulgation of a Standard on adjustment of historical depreciation costs for inflation. The proposed Standard is designed to implement further the requirement of Section 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. App. 2168. The Standard is proposed to be applicable to all contracts and subcontracts covered by the Cost Accounting Standards clause.

The proposed Standard, if adopted, would be one of a series of Cost Accounting Standards which the Board is promulgating "to achieve uniformity and consistency in the cost accounting principles followed by defense contractors and subcontractors under Federal contracts." (See Sec. 719(g) of the Defense Production Act of 1950, as amended.)

The following paragraphs are provided to help identify the issues considered by the Board in developing this specific proposal. The Board will consider all timely comments received from interested parties.

INTRODUCTION

One of the fundamental assumptions underlying accounting in the United States is that the purchasing power of the monetary unit remains stable. Increasingly, however, this assumption has been at variance with the facts. Measured in terms of the Gross National Product (GNP) implicit price deflator, inflation has been all but continuous for the past three decades, but in recent years has become very rapid. In depreciation accounting, expenditures for tangible capital assets in a given period are recognized as costs in subsequent periods. Thus, under inflationary conditions, answering the question what is cost? involves consideration of the purchasing power of the dollars representing that cost. Similar problems arise when agreements are reached based upon estimates of cost, as for labor and materials, made in one period when actual expenditures for such items, in inflated amounts, are made in subsequent periods. Many other accounting questions arise when inflationary price changes are a persistent fact of economic life.

These problems are widely recognized. Alternative approaches for dealing with them have been developed, and authoritative accounting bodies are hard at work devising appropriate implementation rules. For example, the Financial Accounting Standard Board (FASB) has issued an exposure Standard on price level restatement of financial accounting statements. The projected implementation date is January 1, 1976. Still under study by the FASB is an approach that would go beyond mere price-level restatements, recognizing perhaps as well the effect of specific price movements on fixed asset and inventory valuations. Along the same line, the Securities and Exchange Commission has recently announced a plan to require disclosure of replacement cost data relating to fixed assets and inventories. Still other responses to inflation problems have, in this country, taken the form of changes in accounting practice under existing Generally Accepted Accounting Principles (GAAP), as the widespread shift to LIFO attests.

Accounting for costs under inflationary conditions has been a matter of concern to the Cost Accounting Standards Board for some time. The Board has determined that affirmative action should be taken now to recognize the impact of inflation on contract cost. Choices must be made as to the extent of applicability, considering the desire for prompt effectiveness.

CONTRACT COSTS FOR LABOR AND MATERIALS UNDER INFLATION

An important cost measurement as related to cost of goods sold is that for raw materials and components, and the inventoried cost of work in process and finished goods. Persistent price movements affect all of these, but in defense production, some much more than others. In the case of cost-type contracts, ongoing changes in the prices of purchased materials and components constitute recoverable expenses of production, and to that extent are automatically taken into account. Much material is charged directly to contracts upon acquisition. The Board believes that for the present contract costing rules in connection with costs of materials equitably meet the principal impact of inflation on cost-type contracts.

The same conclusion appears to be justified as regards the direct labor component of work-in-process inventories. As wage increases take effect, they are brought to account as part of recoverable costs.

Fixed price contracts present a different picture. In periods of rapid and variable rates of price change, uncertainties due to this source have to be considered in arriving at a contract price. Under the conditions prevailing in recent years, reaching viable price agreements has been difficult. To deal with this problem, the Department of Defense has established methods for adjusting contract price in line with certain inflationary cost changes. The techniques and applicable situations are set down in Defense Procurement Circular 120. For example, this regulation provides a set of guidelines for negotiating a contract clause designed to provide relief based on the movement of materials and labor cost indices. Together with the provisions covering certain purchased materials in fixed price supply contracts (adjustment based on established prices) and others applying to negotiated fixed price supply contracts (actual cost method), these procedures appear capable of dealing with the cost items so far discussed in regard to major fixed price contracts.

THE PROBLEM AREA: ACCOUNTING FOR INVESTMENT COST OF TANGIBLE CAPITAL ASSETS

In the area of accounting for the investment cost of tangible capital assets, however, action is required. No procedure has been developed to date to recognize the effect of inflation as has been substantially accomplished for materials and labor. If one-tenth of a depreciable facility's potential services is used this year, and the facility cost $1 million five years ago, the historical approach has been to compute this year's depreciation cost as $100,000. But, with inflation, 100,000 1975 dollars are less valuable than 100,000 1970 dollars. Depreciation cost under the historical approach does not take into account the impact of inflation.

Some have argued that the problem of depreciation accounting under inflationary conditions should be offset by the use of unrealistically low asset lives and unduly accelerated depreciation methods. The Board has rejected such unrealistic depreciation as a remedy for this problem. Historical costs should be amortized over the period of expected useful service for the measure of depreciation on an historical cost basis. The Board believes that a more direct approach should be used to calculate the impact of inflation on the depreciation cost of tangible capital assets.

THE QUESTION OF BASIC APPROACH

Accounting theory and the work of the authoritative bodies mentioned earlier have produced more than one basic approach for dealing with inflationary price changes. Some would use current values—in most situations, the replacement costs—of an entity's fixed assets to compute depreciation. Others would restate historical dollar depreciation in terms of current purchasing power.

The Board recognizes many conceptual arguments for the recognition of replacement cost as the basis for measurement of the economic sacrifice involved in current operations through the employment of assets acquired in the past. The attempt to identify the relevant replacement costs, however, could involve the use of many price indices (all subject to audit and acceptance by the Government) and create undue complications, making current replacement depreciation cost accounting unsuitable for the contract situation. The Board will continue to observe efforts by others to develop appropriate techniques for dealing in a practical manner with depreciation based upon replacement cost but, at the present, does not believe that the available techniques are appropriate.

Contract administration will benefit if the impact of inflation can be measured, for all contract situations, by application of one index series. The Board recognizes that reliance on any one index, however, will result in measurements which do not correspond with the perceptions of some contractors as to the impact of inflation. Use of any one component of the wholesale price index (that of producer finished goods, for example) would not represent replacement costs of all assets, since structures would be excluded. Alternatively, one might choose an index of price-level change related to all business fixed investment (the implicit deflator for non-residential structures and producers' durable equipment, for example). Still, the resulting adjustment in depreciation expense would frequently miss the mark by wide margins because contractors utilize different combinations of capital assets.

The Board has chosen, for this proposal, to measure the impact of inflation in terms of the observed erosion of purchasing power. The Board recognizes that this choice does not represent what, until now, has been the intent of the contracting parties; contracts have not been negotiated with the idea of equal units of purchasing power in mind. The Board feels, nevertheless, that a measurement of the diminution of purchasing power is an appropriate measurement of the impact of inflation. The proposal which follows is, therefore, based upon the identification of the impact of inflation as perceived by changes in the general price-level.

Relationship to Cost of Capital

The Board has authorized a staff project for development of a possible Cost Accounting Standard to deal with the imputed cost of capital. Such a Standard will, in all probability, involve identification of assets, including depreciable assets, related to the performance of negotiated contracts. The recognition of capital cost could be on the basis of asset acquisition costs, on the basis of the current purchasing power equivalent of those costs, or on the basis of replacement values. The interest rate used in recognizing the contract cost of capital employment could be designed to cover the impact of inflation as well as the time value of money. The Board could, in other words, include recognition of the impact of inflation in a provision for capital cost recognition. The Board at this point, however, has chosen to deal separately with the effect of inflation on depreciation.

Recognition of an Imputed Cost

When contract prices are based on costs, the contract parties have typically assumed a definition of "cost" which would exclude amounts of the type under consideration in the proposed Standard. This proposal represents a break from the established requirement that "cost" be incurred in the sense of representing a cash outlay. The proposed Standard would measure a contract cost which is not such an expenditure.

The cost which is proposed for recognition can be audited readily because it is derived in an explicit manner from recognized account balances. The proposal thus does not impose any significant new kinds of effort in contract administration.

Applicability

The Standard being proposed today represents a significant conceptual change in contract costing. Contracts now being performed were negotiated with mutual understanding, by the contracting parties, of the generally accepted accounting principle that depreciation would be the amortization of acquisition cost expressed in historical dollar terms. Assets now on hand were acquired with an implied understanding that the acquisition costs would be amortized with no adjustment for changes in purchasing power.

At least three major choices could be considered here. One might readily argue that, once the Board acknowledges inflation as a cost, the full impact of inflation should be recognized for all assets, at least for all future contracts. Another possibility would be to recognize that any past inflation took place under previous contract costing rules, and to recognize only the further inflation after the effective date of the Standard. The Board has selected the third choice, that of making the proposal applicable only to the depreciation related to new assets.

The proposal is to continue the present depreciation costing practices for all assets acquired prior to the effective date of this Standard, and to provide for the adjustment on a purchasing power basis for the future depreciation of all assets acquired after this Standard and the Board's Standard on depreciation are effective.

This proposal depends on the use of a statistical measure of inflation as perceived in the domestic economy. The Board does not at this time have any specific proposal to provide comparable recognition for the impact of inflation on foreign contractors.

Gains and Losses at Disposition

This proposal is presented in a simple form to encourage attention to the major issues. When the Board has established the technique for measuring the impact of inflation on fixed asset accounting, the Board will take steps to assure appropriate action for recognition of gains and losses at time of disposition of tangible capital assets.

The Board solicits comments on the proposed Cost Accounting Standard. Interested persons should submit written materials which will assist the Board in its consideration of the proposal. Views and data should be submitted to the Cost Accounting Standards Board, 441 G Street, N.W., Washington, D.C. 20548.

To be given consideration by the Board in its determination relative to final promulgation of the Cost Accounting Standard covered by this Notice, written submissions must be made to arrive no later than December 8, 1975.

Note: All written submissions made pursuant to this Notice will be made available for public inspection at the Board's office during regular business hours.

The proposed Standard reads as follows:

PART 413—COST ACCOUNTING STANDARD ADJUSTMENT OF HISTORICAL DEPRECIATION COSTS FOR INFLATION

Sec.

413.10 General applicability.
413.20 Purpose.
413.30 Definitions.
413.40 Fundamental requirement.
413.50 Techniques for application.
413.60 Illustrations.
413.70 Exemptions.
413.80 Effective date.

Authority: Sec. 719 of the Defense Production Act of 1950, as amended, Public Law 91-379, 50 USC App. 2168.

§ 413.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

§ 413.20 Purpose.

The purpose of this Standard is to establish the principle that price-level adjustments are relevant in the determination of contract costs. The Standard provides criteria for the determination of an adjustment to be made to the recorded depreciation expense which was based on the historical acquisition cost of depreciable assets. This adjustment will be a part of contract cost. Recognition of price-level adjustments, determined in accordance with the provisions of this Standard, will improve the economic usefulness of cost measurements for pricing purposes. This Standard is based on the techniques available at the time of promulgation. When improved techniques for dealing with the impact of inflation are developed, this Standard may be modified.

§ 413.30 Definitions.

(a) The following definitions of terms which are prominent in this Standard

are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this Standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section:

(1) *Allocate.* To assign an item of cost, or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Domestic concern.* A concern incorporated in the United States or an unincorporated concern having its principal place of business in the United States.

(3) *Final cost objective.* A cost objective which has allocated to it both direct and indirect costs, and, in the contractor's accumulation system, is one of the final accumulation points.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this Standard: None.

§ 413.40 Fundamental requirement.

(a) An inflation-related adjustment for depreciation shall be computed using an appropriate index annually at the end of each cost accounting period. The contractor shall: (1) Establish vintage groups of depreciable assets; (2) compute the depreciation expense based on historical costs for each group; (3) determine the percentage change in the index from each group's base year to the current year; and (4) determine the total inflation-related adjustment for the depreciation expense.

(b) The inflation-related adjustment for depreciation shall be allocated to final cost objectives in proportion to the assignment of the depreciation expense on which it is based.

(c) The inflation-related adjustment for depreciation shall be computed only on those tangible capital assets of a domestic concern whose service lives have been established in accordance with the provisions of Part 409 of the Cost Accounting Standards Board's rules and regulations and substantiated in accordance with § 409.50(e) thereof.

§ 413.50 Techniques for application.

(a) Records shall be maintained in sufficient detail to support the computation of the depreciation adjustment and permit audit verification.

(b) The annual average of the Gross National Product Implicit Price Deflator (GNP deflator) shall be used as the appropriate index. The GNP deflator is published by the Bureau of Economic Analysis of the U.S. Department of Commerce.

(c) Vintage groups of depreciable assets by year of acquisition (base year) shall be established.

(d) Annually the depreciation adjustment required by § 413.40(a) shall be computed by indexing the depreciation expense based on historical cost for each vintage group for the percentage change from that group's base year in the GNP deflator.

(e) The depreciation adjustment for each vintage group will be calculated in accordance with the following formula:

$$\text{Historical cost-based depreciation} \times \left(\frac{\text{Index for current year}}{\text{Index for base year}} - 1.0\right)$$

§ 413.60 Illustrations.

The GNP deflator information is supplied and the following examples are illustrative of the provisions of this Standard.

(a) GROSS NATIONAL PRODUCT IMPLICIT PRICE DEFLATOR

ANNUAL AVERAGES

Year:	*Deflator*
197A	135.2
197B	141.4
197C	146.1
197D	154.3
197E	170.2

Source: United States Department of Commerce, Bureau of Economic Analysis.

(b) (1) For purposes of this illustration, the provisions of this Standard became applicable to Company A in 197A. Company A's cost accounting period is a calendar year. In accordance with § 413.50(c), the vintage group of depreciable assets for 197C has been established and the 197E historical cost-based depreciation has been determined to be $123,000. In compliance with § 413.50(e), the computation of the depreciation adjustment for the 197C vintage group for fiscal year 197E is:

$$\$123{,}000 \times \left(\frac{170.2}{146.1} - 1.0\right) = \$20{,}290$$

(2) Company A's historical cost-based depreciation for its 197D vintage group of like assets is determined to be $315,000 for fiscal year 197E. The computation would be:

$$\$315{,}000 \times \left(\frac{170.2}{154.3} - 1.0\right) = \$32{,}460$$

(3) In compliance with § 413.50(d), a computation shall be made for each vintage group year. The sum of these computations shall comprise the one total depreciation adjustment which will be assignable to final cost objectives in proportion to the amounts of depreciation expense included in the costs allocated to those final cost objectives.

(c) Company B's cost accounting period ends June 30. The same computation shall be made as indicated above for each vintage group year's assets using the applicable annual average of the GNP deflator. For example, using the Bureau of Economic Analysis quarterly indices the computation for the period ending June 197D would be:

197D year:	*Quarterly average deflators*
3d quarter (C)	146.5
4th quarter (C)	148.0
1st quarter (D)	150.0
2d quarter (D)	152.6
	597.1 ÷ 4 = 149.3

§ 413.70 Exemption.

This Standard shall not apply where compensation for the use of tangible capital assets is based on use allowances as provided for by the provisions of Federal Management Circular 73-8 (Cost Principles for Educational Institutions), Federal Management Circular 74-4 (Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments), or other appropriate Federal procurement regulations.

§ 413.80 Effective date.

(a) The effective date of this Cost Accounting Standard is [Reserved].

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.75-27203 Filed 10-8-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 441-3]

NORTH DAKOTA

Proposed Approval and Promulgation of State Implementation Plans

On May 31, 1972 (37 FR 10885), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved and promulgated the North Dakota State Implementation Plan (SIP).

On June 14, 1973, the Governor of North Dakota submitted compliance schedules for 24 sources of air contaminants. No action was taken to approve these schedules because some of the schedules extended beyond the February 1, 1975, attainment date for the National Secondary Ambient Air Quality Standards for Particulates. The State of North Dakota Department of Health agreed to submit a clarification through the Governor's office that the Secondary Particulate Attainment Date was also being revised for the North Dakota Intrastate Air Quality Control Region, and supplemental information explaining why it is not reasonable for the affected sources to be in compliance by February 1, 1975.

On February 19, 1974, the Governor of North Dakota submitted revisions to the compliance schedule of one of the 24 sources included in his June 24, 1973, submittal. The Governor also submitted a revision to the North Dakota SIP providing for public notice and comment on new source review approval/disapproval actions as required by 40 CFR 51.18.

The clarification concerning the revision of the Secondary Particulate Standard Attainment Date was submitted by the Governor of North Dakota on November 21, 1974. This submittal changes the attainment date for the National Secondary Ambient Air Quality Standard for Particulates from February 1, 1975, to December 30, 1976, for the North

Dakota Intrastate Air Quality Control Region.

The supplemental information explaining why it is not reasonable for the sources whose compliance schedules extend beyond February 1, 1975, to be in compliance by that date was submitted on April 23, 1975, by the North Dakota State Department of Health. This supplemental information also contained 1974 air quality data showing that the North Dakota Intrastate Air Quality Control Region was in compliance with the National Primary Ambient Air Quality Standard for Particulates and that only the National Secondary Ambient Air Quality Standard for Particulates was being violated.

The requirements for public hearings, plan revisions, and compliance schedules (40 CFR 51.4, 51.6, and 51.15) have been met by the State's proposed revisions. The compliance schedules have been reviewed and found to be consistent with the approved control strategy and the proposed attainment date for the Secondary Particulate Standard. The supplemental information submitted by the State Department of Health has been reviewed, and a determination has been made that the proposed attainment date of December 30, 1976, for the North Dakota Intrastate AQCR is reasonable in view of the compliance problems of certain sources.

The Administrator hereby issues this notice setting forth as proposed rulemaking, pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the North Dakota Compliance Schedules as submitted on June 14, 1973, and revised in the submittal of February 19, 1974; the revision providing for public notice and comment on new source review approval/disapproval actions submitted on February 19, 1974, and the revised attainment date for the secondary particulate standard for the North Dakota Intrastate AQCR clarified in the submittals of November 21, 1974, and April 23, 1975.

In the proposed § 52.1830 below, the final compliance date is listed for each source for which a compliance schedule has been proposed. In all cases, the schedules include incremental steps toward compliance with the applicable emission limitations. While these incremental dates are not listed in the table, they are set forth in the schedules and are Federally enforceable.

The proposed North Dakota revisions are available for public inspection at the Office of the North Dakota Department of Health, Division of Environmental Engineering, State Capitol, Bismarck, North Dakota, 58505. Copies of the proposed revisions and an evaluation of the revisions are available at the Offices of the Environmental Protection Agency listed below:

Environmental Protection Agency, Office of Public Affairs, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203.

Environmental Protection Agency, Freedom of Information Center, Room 329, 401 M Street SW., Washington, D.C. 20460.

Interested persons are encouraged to participate in this rulemaking by submitting written comments, preferably in triplicate, on the proposed revisions. Such comments will be accepted for consideration until November 10, 1975. Comments should be addressed to the Office of Regional Counsel, Environmental Protection Agency, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203. All comments will be available for public inspection during normal business hours at the offices of the Environmental Protection Agency noted above.

(Section 110 of the Clean Air Act, as amended, (42 U.S.C. 1857c-5))

Dated: September 30, 1975.

JOHN A. GREEN,
Regional Administrator, Region VIII.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart JJ—North Dakota

1. In § 52.1820, paragraph (c) is added as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) Supplemental information was submitted on:

(1) June 14, 1973; February 19 and November 21, 1974, by the Governor of North Dakota;

(2) April 23, 1975, by the State Department of Health.

§ 52.1823 [Amended]

2. In § 52.1823, the table setting forth attainment dates for national standards is revised by replacing the date "Feb. 1975" for the attainment date of the secondary standard for particulate matter in the North Dakota Intrastate Region with the date "December 30, 1976".

3. Section 52.1830 is added as follows:

§ 52.1830 Compliance schedules.

(a) The compliance schedules for the sources listed below are approved as meeting the requirement of § 51.6 and § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State, unless otherwise noted.

NORTH DAKOTA

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Montana-Dakota Utilities	Mandan	23 to 25	June 1, 1973	Immediately	June 1, 1975
Do.	Beulah	do	do	do	Sept. 30, 1975
United Power	Stanton	do	do	do	Jan. 1, 1975
Basin Electric	do	do	do	do	Dec. 1, 1974
Do.	Velva	do	do	do	Nov. 1, 1975
Municipal Utilities	Valley City	do	do	do	July 1, 1975
Northern States Power	Minot	do	do	do	Dec. 31, 1975
Otter Tail Power	Jamestown	do	do	do	July 31, 1979
Do.	Whapeton	do	do	do	Do.
Minnkota Power	Center	do	do	do	Nov. 15, 1974
Do.	Grand Forks	do	do	do	Jan. 31, 1974
Consolidated Coal	Velva	do	Dec. 21, 1973	do	Apr. 1, 1975
Husky Ind.	Dickinson	do	June 1, 1973	do	Feb. 1, 1975
American Colloid	Gascoyne	do	do	do	July 1, 1973
American Crystal, Units 1 and 2	Drayton	do	do	do	Feb. 1, 1975
State Hospital	Jamestown	do	do	do	Jan. 15, 1974
Minot State College	Minot	do	do	do	Jan. 31, 1974
University of N. Dak.	Grand Forks	do	do	do	Dec. 30, 1976
N. Dak. State University	Fargo	do	do	do	Feb. 28, 1974
Valley City State College	Valley City	do	do	do	Aug 31, 1974
N. Dak. State University	Bottineau	do	do	do	June 30, 1976
N. Dak. State School of Science	Whapeton	do	do	do	Sept. 30, 1974
San Haven Hospital:					
Units 1 and 2	San Haven	do	do	do	Oct. 1, 1974
Incinerators	do	do	do	do	Sept.15, 1975
N. Dak. School for Deaf	Devils Lake	do	do	do	Apr. 1, 1976

[FR Doc.75-27088 Filed 10-8-75;8:45 am]

[40 CFR Part 52]

[FRL 441-4]

COMMONWEALTH OF PENNSYLVANIA

Proposed Revision to State Implementation Plan

On August 7, 1975, the Commonwealth of Pennsylvania submitted to the Regional Administrator, EPA Region III, amendments to Chapters 123 and 139 of the Rules and Regulations of the Department of Environmental Resources (DER). The Commonwealth requests that these amendments be considered as a revision to the Pennsylvania State Implementation Plan for the attainment and maintenance of national ambient air quality standards.

The amendment to Chapter 123 consists of the addition of § 123.24, controlling emissions from primary zinc smelters. The emission limitations in this section specify that:

1. No person shall cause, suffer, or permit the emission into the outdoor atmosphere of sulfur oxides, from any zinc roasting operation, in such a manner that the concentration of sulfur oxides, expressed as SO_2, in the effluent gas exceeds 500 parts per million by volume (dry basis) calculated as a two-hour moving average.

2. No person shall cause, suffer, or permit the emission into outdoor atmosphere of sulfur oxides, from any zinc sintering operation, at any time in excess of the rate calculated by the following formula:

$$Y = 0.054X$$

where

X = Calcine feed rate to the sinter plant (pounds per hour).

Y = Allowable sulfur oxide emissions (pounds per hour).

Similarly, the amendment to chapter 139 consists of a modification to section 139.13. Subsection (8) has been modified to read: "Results shall be reported as pounds per hour of SO_x as SO_2, pounds per hour of H_2S, or pounds per hour of NO_x as NO_2 and in accordance with the units specified in §§ 123.21–123.24 and 129.11–129.13 of this Title (relating to standards for contaminants and sources)".

The amendments are the result of legal action brought under section 307 of the Clean Air Act by the St. Joe Minerals Corporation and others [*Duquesne Light Company* v. *EPA*, 481 F2d 1 (3rd cir. 1973)]. The Third Circuit Court required EPA to consider the feasibility of the general sulfur dioxide regulation (§ 123.21) as it applied to the petitioning parties. Following hearings, EPA concluded that this regulation as applied to St. Joe Minerals was technologically infeasible. As a consequence of this conclusion, the Administrator suggested that Pennsylvania submit a plan revision. In response, Pennsylvania formulated a new regulation controlling sulfur dioxide emissions from zinc smelters, based on discussions between DER and the zinc industry, and amended the DER Regulations accordingly.

On August 21, 1975, the Commonwealth of Pennsylvania submitted adequate proof that hearings regarding these amendments were held on June 9, 1975, in Palmerton and on June 10, 1975, in Beaver, in accordance with the requirements of 40 CFR 51.4.

The public is invited to submit comments on whether the amendments to the Rules and Regulations of the Department of Environmental Resources should be approved as a revision to the Pennsylvania State Implementation Plan. Only comments received before (30 days after date of publication) will be accepted. The Administrator's decision to approve or disapprove the proposed revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Copies of the proposed revision, and the analysis on which it is based are available during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality and Noise Control, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments should be addressed to:

Howard Heim, Chief, Air Planning Branch (3AH10), Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106; ATT: AH010PA.

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

Dated: September 26, 1975.

DANIEL J. SNYDER III,
Regional Administrator.

[FR Doc.75-27236 Filed 10-8-75;8:45 am]

[40 CFR Part 52]

[FRL 442-1]

COMMONWEALTH OF PENNSYLVANIA

Proposed Revision to State Implementation Plan

On August 7, 1975, the Commonwealth of Pennsylvania submitted to the Regional Administrator, EPA Region III, amendments to Chapters 123 and 139 of the Rules and Regulations of the Department of Environmental Resources (DER). The Commonwealth requests that these amendments be considered as a revision to the Pennsylvania State Implementation Plan for the attainment and maintenance of national ambient air quality standards.

The amendment to Chapter 123 consists of the addition of section 123.24, controlling emissions from primary zinc smelters. The emission limitations in this section specify that:

1. No person shall cause, suffer, or permit the emission into the outdoor atmosphere of sulfur oxides, from any zinc roasting operation, in such a manner that the concentration of sulfur oxides, expressed as SO_2, in the effluent gas exceeds 500 parts per million by volume (dry basis) calculated as a two-hour moving average.

2. No person shall cause, suffer, or permit the emission into outdoor atmosphere of sulfur oxides, from any zinc sintering operation, at any time in excess of the rate calculated by the following formula:

$$Y = 0.054X$$

Where:

X = calcine feed rate to the sinter plant (pounds per hour)

Y = allowable sulfur oxide emissions (pounds per hour)

Similarly, the amendment to chapter 139 consists of a modification to section 139.13. Subsection (8) has been modified to read: "Results shall be reported as pounds per hour of SO_x as SO_2, pounds per hour of H_2S, or pounds per hour of NO_x as NO_2 and in accordance with the units specified in §§ 123.21–123.24 and 129.11–129.13 of this Title (relating to standards for contaminants and sources)".

The amendments are the result of legal action brought under section 307 of the Clean Air Act by the St. Joe Minerals Corporation and others [*Duquesne Light Company* v. *EPA*, 481 F2d 1 (3rd cir. 1973)]. The Third Circuit Court required EPA to consider the feasibility of the general sulfur dioxide regulation (§ 123.21) as it applied to the petitioning parties. Following hearings, EPA concluded that this regulation as applied to St. Joe Minerals was technologically infeasible. As a consequence of this conclusion, the Administrator suggested that Pennsylvania submit a plan revision. In response, Pennsylvania formulated a new regulation controlling sulfur dioxide emissions from zinc smelters, based on discussions between DER and the zinc industry, and amended the DER Regulations accordingly.

On August 21, 1975, the Commonwealth of Pennsylvania submitted adequate proof that hearings regarding these amendments were held on June 9, 1975, in Palmerton and on June 10, 1975, in Beaver, in accordance with the requirements of 40 CFR 51.4.

The public is invited to submit comments on whether the amendments to the Rules and Regulations of the Department of Environmental Resources should be approved as a revision to the Pennsylvania State Implementation Plan. Only comments received before November 10, 1975, will be accepted. The Administrator's decision to approve or disapprove the proposed revision will be based on whether it meets the requirements of section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Copies of the proposed revision, and the analysis on which it is based are available during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

Pennsylvania Department of Environmental Resources, Bureau of Air Quality and Noise Control, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

All comments should be addressed to:

Howard Heim, Chief, Air Planning Branch (3AH10), Air and Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. ATT: AH010PA.

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

Dated: September 26, 1975.

DANIEL J. SNYDER III,
Regional Administrator.

[FR Doc.75-27089 Filed 10-8-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 76]

[Docket No. 20496]

CABLE TELEVISION SYSTEM

Extension of Comment Period

In the matter of amendment of Part 76 of the Commission's rules and regulations to modify or eliminate the use of signal strength contours for purposes of cable television system regulation.

1. By Order of August 5, 1975, and in response to a petition filed by the Storer

Broadcasting Company, the time for filing comments in the captioned proceeding was extended from August 11, 1975, to October 8, 1975, and the reply comment due date was changed from September 1, 1975, to October 24, 1975. Counsel for the Public Broadcasting System (PBS) has submitted a timely petition requesting that the time for filing comments and replies be extended once again. In support of its request, PBS states that additional time is needed to complete a "massive engineering study" undertaken to analyze the signal carriage alternatives under consideration in this proceeding and to determine their potential impact on educational television broadcast stations, especially those operating on UHF channels. Additional time is also required, petitioner maintains, to send the results of this research to its member stations so that they too can determine any position they may individually wish to take in this proceeding. PBS asserts that the availability of this engineering study will provide the Commission with valuable information concerning the impact of any signal carriage rule modification the Commission may decide to adopt. Counsel for PBS has requested a sixty-day extension for the filing of comments and replies.

2. Although it does appear that good cause has been shown for another extension of time for the filing of comments and replies in this proceeding, we do not believe that an extension of the magnitude requested by petitioner is warranted. Rather, we believe that an extension of thirty days is more appropriate. Accordingly, the dates for filing comments and replies will be extended to November 10, 1975, and November 26, 1975, respectively. While this does not constitute the full extension requested, it should provide adequate time for the preparation of comments and replies.[1]

Accordingly, *it is ordered*, That the dates for filing comments and replies in the captioned proceeding are extended to November 10, 1975, and November 26, 1975, respectively.

This action is taken by the Chief, Cable Television Bureau pursuant to authority delegated by § 0.288(a) of the Commission's Rules.

Adopted: September 30, 1975.

Released: October 3, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] DAVID D. KINLEY,
Chief, Cable Television Bureau.

[FR Doc.75-27159 Filed 10-8-75;8:45 am]

[1] Counsel for NEP Communications, Inc. has filed a request for a one-week extension of time for the filing of comments in the captioned proceeding. In view of our grant today of a longer extension of time in response to the PBS petition, the request filed by NEP Communications, Inc. is rendered moot.

[47 CFR Part 89]

[Docket No. 20560; RM-2522]

NATIONWIDE POLICE EMERGENCY COMMUNICATIONS CHANNEL

Order Extending Time for Filing Reply Comments

In the matter of amendment of Part 89 of the Commission's rules and regulations to designate the frequency 155.475 MHz as a common, nationwide police emergency communications channel.

1. The Associated Public Safety Communications Officers, Inc. (APCO) has asked for an extension of the period for filing reply comments in this proceeding from September 30, 1975 to October 14, 1975. APCO cites the shortness of the period originally provided and states that it needs the additional period for the preparation of meaningful replies.

2. It appears that the additional period requested is reasonable. Accordingly, *it is ordered*, Pursuant to §§ 0.331 and 1.46 of the Commission's rules, That the time for filing reply comments in this proceeding is extended to October 14, 1975.

Adopted: September 30, 1975.

Released: October 3, 1975.

[SEAL] CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.75-27160 Filed 10-8-75;8:45 am]

[47 CFR Parts 74 and 78]

[Docket No. 20539]

MICROWAVE RELAY STATIONS; OPERATION OF TELEVISION TRANSLATOR STATIONS USING MODULATION OF A DIRECT VIDEO AND AUDIO FEED

Order Extending Time for Filing Reply Comments

In the matter of amendment of Subparts F and G of Parts 74 of Subpart B of Part 78 to provide for the use of FM microwave relay stations, and to provide for the operation of television translator stations using modulation of a direct video and audio feed.

1. On July 2, 1975, the Commission adopted a *Notice of Proposed Rule Making* in the above-mentioned proceeding. Publication was given in the FEDERAL REGISTER on July 24, 1975, 40 FR 30985. The time for filing comments has expired and the date for filing reply comments is September 29, 1975.

2. On September 25, 1975, Counsel for the National Translator Association (NTA), requested that the time for filing reply comments be extended to and including October 13, 1975. Counsel states that much of the information relating to the comments in this proceeding is technical in nature and an engineering statement is being prepared for NTA on a gratuitous basis and the engineer preparing this statement is unable to comply with the deadline date for the filing of reply comments. In addition, counsel states that he has been ill for the past week and has been unable to properly advise his client or prepare the necessary motion for extension of time to file pleadings in this proceeding.

3. Pursuant to the provisions of Section 1.46 of the rules, motions for extension of time are to be filed at least seven days prior to the filing date. Late-filed requests will be considered in cases of emergency. We believe the instant request sets forth sufficient reason for not having complied with the seven-day rule and that the public interest would be served by granting petitioner's request in this proceeding.

4. Accordingly, *it is ordered*, That the date for filing reply comments is extended to and including October 13, 1975.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Sections 0.281 and 1.46 of the Commission's rules.

Adopted: September 30, 1975.

Released: October 3, 1975.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-27167 Filed 10-8-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 230]

[FRA General Docket No. H-75-4]

LOCOMOTIVE INSPECTION TEST PROGRAM

Notice of Hearing

Notice is hereby given that the Railroad Safety Board of the Federal Railroad Administration (FRA) is considering instituting a limited test program designed to provide information on the feasibility and advisability of utilizing different inspection requirements solely applicable to electrically powered multiple unit passenger cars in lieu of those presently required pursuant to the 30 day provisions of the existing locomotive inspection regulations 49 CFR 230. The type of equipment which is presently under consideration in this proposal to institute a test program is illustrated by the passenger cars currently being operated by the Port Authority Trans Hudson Corporation (PATH).

PATH presently provides commuter rail passenger service in the New York metropolitan area. It operates approximately 300 electrically powered, multiple unit passenger cars most of which are of recent vintage.

Information provided to the Railroad Safety Board has indicated that there

are reasons to believe that improvements in technology and the design of electrically powered multiple unit passenger equipment may warrant the establishment of such a test program. Data has also become available which indicates that similar type equipment operated by carriers who furnish exclusively rapid transit service over their lines is subjected to widely divergent safety inspection practices. The Railroad Safety Board has also received information from PATH which indicates that PATH is willing to serve as a participating railroad in the event any test program is approved by the Board.

The Railroad Safety Board seeks the comments and views of all interested parties on the appropriateness of such a test program as well as on the terms and conditions, to assist in determining whether any test program should be established. Detailed technical information on the current safety inspection practices of rapid transit operators as well as their operational experience with those inspection practices is desired.

In furtherance of this effort the Railroad Safety Board will hold a public hearing on the proposal for a test program. Accordingly, a public hearing is hereby set for 10:00 a.m. on November 6, 1975 in Room 2839, Federal Building, Federal Plaza, New York City.

The hearing will be an informal one, and will be conducted in accordance with Rule 31 of the FRA Rule-Making Procedures (49 CFR 211.31), by a representative designated by the Board. The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The representatives of the Board will make an opening statement outlining the scope of the hearing and the nature of the contemplated test program. After all initial statements have been completed, those persons who wish to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary, for the conduct of the hearing will be announced at the hearing.

Interested persons are also invited to participate in this proceeding by submitting written data, views, or comments on the terms and conditions of this test program. Communications should identify the Docket Number and Notice Number (FRA General Docket No. H-75-4) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before November 10, 1975, will be considered by the Federal Railroad Administration before final action is taken. Comments received after that date will be considered so far as practicable. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during reguar business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

This notice is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; and § 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 October 3, 1975.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.75-27131 Filed 10-8-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Navy

REGIONAL DISCHARGE REVIEW SYSTEM

Establishment

The Navy Discharge Review Board is authorized under 10 U.S.C. 1553 to review the discharge or dismissal of any former member of the Navy or Marine Corps, either at the request of the former member or upon the board's motion. A person who requests a review of a discharge or dismissal is entitled to appear before the board in person or by counsel. In a memorandum dated June 18, 1975, the Department of Defense directed the military services to establish procedures for the review of discharges in locations outside of Washington, D.C. The purpose of the Department of Defense directive is to make it easier and less expensive for applicants who live at great distances from Washington, D.C. to appear in person before the board.

Beginning in November 1975, the Navy Discharge Review Board will convene and conduct hearings for a number of days each quarter in each of the following locations: Chicago, Illinois; New Orleans, Louisiana, and San Francisco, California. Any former member of the Navy or Marine Corps who desires to obtain a review of his or her discharge, either in one of the new regional locations or in Washington, D.C., should file an application with the board using DD Form 293. If a personal appearance is requested, the applicant should indicate which of the four board locations is preferred. The completed application form (DD 293) should be mailed to the following address:

Navy Discharge Review Board, Department of the Navy, Washington, D.C. 20370.

Copies of the DD Form 293 may be obtained from the board at the above address.

Dated: October 6, 1975.

WILLIAM O. MILLER,
Rear Admiral, JAGC, U.S. Navy,
Deputy Judge Advocate General.

[FR Doc.75-27207 Filed 10-8-75;8:45 am]

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on October 28–29, 1975, at the Pentagon, Washington, D.C. The sessions will commence at 9:00 a.m. and terminate at 5:30 p.m. daily.

The agenda will be limited to briefings and discussions of matters of advanced technology required by Executive Order to be kept secret in the interest of national defense, including presentations on intelligence systems and applications, security programs, systems development, advanced and specialized technology, and long-range Navy plans. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that this meeting be closed to the public because it will be concerned with matters listed in 5 U.S.C. Section 552 (b) (1).

Dated: OCTOBER 6, 1975.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.75-27208 Filed 10-8-75;8:45 am]

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will hold a closed meeting on November 19–20, 1975, at the Pentagon, Washington, D.C. The sessions will commence at 9:00 a.m. and terminate at 5:30 p.m. daily.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense, including a current intelligence assessment and discussions on naval missions, policy and strategy, systems development, specialized technology, and long-range Navy plans. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that this meeting be closed to the public because it will be concerned with matters listed in 5 U.S.C. Section 552(b) (1).

Dated: OCTOBER 6, 1975.

K. D. LAWRENCE,
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc.75-27209 Filed 10-8-75;8:45 am]

Office of the Secretary

DEFENSE INTELLIGENCE SCHOOL BOARD OF VISITORS

Notice of Partially Closed Meetings

Pursuant to the provisions of Section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that partially closed meetings of the Defense Intelligence School Board of Visitors will be held at Rollins College, Winter Park, Florida on 12–14 November 1975.

The two Executive Sessions, scheduled from 0900–1100 hours on 13 November and from 0900–1130 hours on 14 November, will be devoted to the discussion of classified information as defined in Section 552(b) (1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be concerned with specialized instructional requirements and related curricula content. All other sessions will be concerned with unclassified academic matters and are open to the public.

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

OCTOBER 6, 1975.

[FR Doc.75-27218 Filed 10-8-75;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON "SURFACE NAVAL WARFARE"

Notice of Advisory Committee Meeting

The Defense Science Board Task Force on Surface Naval Warfare will meet in closed session on 3–4 November 1975. The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will undertake a review of the adequacy and direction of U.S. Navy programs in surface offensive operations in the face of continuing increases in Soviet capabilities in naval weapons, command and control, and out-of-area operations. The Task Force will concentrate first on U.S. programs in tactical surface engagements to help assure that our R&D investments yield the greatest improvement in our total force capabilities, when deployed in quantities we can afford. Classified details of U.S. and Soviet systems will be reviewed.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552(b) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

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

OCTOBER 6, 1975.

[FR Doc.75-27217 Filed 10-8-75;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

INDUSTRIAL USES AND HANDLING OF P_2P (PHENYLACETONE, PHENYL-2-PROPANONE, AND BENZYL METHYL KETONE)

Solicitation of Information

The Drug Enforcement Administration has become aware that a compound known as P_2P, and variously identified as phenylacetone, phenyl-2-propanone, and benzyl methyl ketone, has been reported used in the clandestine manufacture of amphetamine for trafficking purposes.

In view of this, DEA is studying P_2P in deciding whether control of it is necessary under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801–966) and regulations promulgated thereunder (21 CFR Part 1300 to end). These measures, if ultimately imposed, would regulate the manufacture, distribution and other handling of P_2P by requiring among other controls registration, security, and recordkeeping, and would make unauthorized use of P_2P unlawful.

DEA is aware this compound is used by industry in the preparation of polymers, selective solvents, flavoring agents, perfumes, insecticides, and antibacterial agents, and recognizes that DEA regulation of P_2P may have some effect upon these, and other industrial activities regarding the compound. However, DEA is not aware of the entire scope of use of P_2P by industry and therefore cannot predict the impact its regulation would have on them. To determine the extent of any such resulting impact, the Acting Administrator of the Drug Enforcement Administration invites all interested persons to provide DEA with any information on the manner of acquisition, consumption, storage, disposal and uses of P_2P by industry.

Such information may be submitted to the Special Programs Division, Office of Science and Technology, Drug Enforcement Administration, Washington, D.C. 20537, by November 1, 1975.

Dated: October 2, 1975.

HENRY S. DOGIN,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.75-27166 Filed 10-8-75;8:45 am]

CIBA-GEIGY CORP.

Manufacture of Controlled Substances; Notice of Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

> The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:
>
> (1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations, notice is hereby given that on August 12, 1975, Pharmaceuticals Division, Ciba-Geigy Corporation, 556 Morris Avenue, Summit, New Jersey, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of methylphenidate, a basic class of controlled substance in schedule II.

Pursuant to section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with section 1301.43 (a) of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that the above person has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substance indicated, and any other such person, and any existing registered bulk manufacturer of methylphenidate, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than November 10, 1975.

Comments and objections may be addressed to the Hearing Clerk, Office of the Administrative Law Judge, Drug Enforcement Administration, Room 1130, 1405 Eye Street, N.W., Washington, D.C. 20537.

Dated: September 25, 1975.

HENRY S. DOGIN,
Acting Administrator,
Drug Enforcement Administration.

[FR Doc.75-27165 Filed 10-8-75;8:45 am]

Law Enforcement Assistant Administration

NATIONAL ADVISORY COMMITTEE ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Notice of Meeting

Notice is hereby given that the National Advisory Committee on Juvenile Justice and Delinquency Prevention and the three subcommittees will meet Wednesday, Thursday and Friday, October 29, 30, and 31, 1975, in Denver, Colorado. The meeting of the full Committee is scheduled to convene at 9:30 a.m., Thursday, October 30, in Conference Rooms B and C, Denver Airport Hilton Inn, Denver, Colorado. The full Committee meeting is scheduled to adjourn at 5:00 p.m. on Thursday, resume at 9:00 the next day, and will adjourn at 5:00 p.m. on Friday. The Subcommittee on Standards will meet between 1:00 p.m. and 5:00 p.m. on Wednesday, October 29, 1975.

Discussions at the full Committee meeting will focus on:

The First Annual Report of the Office of Juvenile Justice and Delinquency Prevention, submitted to the President and Congress on September 30, 1975.

The development of the First Comprehensive Plan for juvenile justice and delinquency prevention, which is due March 1, 1976.

Subcommittee reports.

The Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention (the National Institute Committee), the Advisory Committee on Concentration of Federal Effort (the Concentration of Federal Effort Committee) and the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice (the Standards Committee) will meet from 1:30 p.m. to 4:00 p.m. on Thursday, October 30.

All meetings will be open to the public.

For further information, contact Mr. Frederick P. Nader, Acting Assistant Administrator, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

GERALD H. YAMADA,
Attorney Advisory,
Office of General Counsel.

[FR Doc.75-27144 Filed 10-8-75;8:45 am]

NATIONAL ADVISORY COMMITTEE ON CRIMINAL JUSTICE STANDARDS AND GOALS

Notice of Meeting

This is to provide notice of meeting of the Research and Development Task Force on Criminal Justice Standards and Goals.

The Research and Development Task Force will meet on October 31, 1975 at the Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C. 20036. The meeting will convene at 9:30 a.m. and will be open to the public.

This is the first meeting of the Research and Development Task Force. Discussion will focus on the functions and duties to be performed by the Task Force members and staff.

For further information, contact William T. Archey, Director, Policy Analysis Division, Office of Planning and Management, 633 Indiana Avenue, N.W., Washington, D.C.

GERALD H. YAMADA,
Attorney-Advisor,
Office of General Counsel.

[FR Doc.75-27149 Filed 10-8-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 26536 and 26708]

NEW MEXICO

Notice of Applications

OCTOBER 2, 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), Southern Union Gathering Company has applied for two 4 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.
Sec. 14, N½N½.
T. 31 N., R. 12 W.
Sec. 23, lots 2, 3, 4, 5, and 6.

These pipelines will convey natural gas across 1.277 miles of national resource lands in Rio Arriba and San Juan Counties, New Mexico.

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, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-27138 Filed 10-8-75;8:45 am]

[NM 26624]

NEW MEXICO

Notice of Application

OCTOBER 3, 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), Amoco Production Company has applied for a 4 inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 27 E.
Sec. 8, NW¼SW¼ and S½SW¼;
Sec. 17, NW¼NE¼ and E½NW¼.

This pipeline will convey natural gas across .819 mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application 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, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-27134 Filed 10-8-75;8:45 am]

[NM 26626 and 26642]

NEW MEXICO

Notice of Applications

OCTOBER 2, 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), El Paso Natural Gas Company has applied for two 4½ inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 24 N., R. 6 W.
Sec. 23, SE¼SE¼;
Sec. 26, N½NE¼.
T. 30 N., R. 8 W.
Sec. 8, NE¼SW¼ and N½SE¼.

These pipelines will convey natural gas across .863 mile of national resource lands in San Juan and Rio Arriba Counties, New Mexico.

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, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-27137 Filed 10-8-75;8:45 am]

[NM 26703]

NEW MEXICO

Notice of Application

OCTOBER 3, 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), Llano, Inc. has applied for a 4 inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 25 E.
Sec. 35, E½NE¼ and NE¼SE¼

The pipeline will convey natural gas across .385 mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application 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, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-27135 Filed 10-8-75;8:45 am]

[NM 26706]

NEW MEXICO

Notice of Application

OCTOBER 2, 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), Southern Union Gas Company has applied for a 4 inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 26 E.
Sec. 1, SE¼SE¼.

This pipeline will convey natural gas across .092 mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application 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, PO Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-27139 Filed 10-8-75;8:45 am]

[NM 26724]

NEW MEXICO

Notice of Application

OCTOBER 3, 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), Natural Gas Pipeline Company of America has applied for a 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 25 E.
Sec. 18, E½NE¼ and SW¼NE¼.

The pipeline will convey natural gas across .494 mile of national resource land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application 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, PO Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-27136 Filed 10-8-75;8:45 am]

NEW ORLEANS OUTER CONTINENTAL SHELF OFFICE

Notice of Approval of Outer Continental Shelf Official Protraction Diagrams

1. Notice is hereby given that, effective with this publication, the following OCS Official Protraction Diagrams approved on the dates indicated, are available, for information only, in the New Orleans Outer Continental Shelf Office, Bureau of Land Management, New Orleans, La., and the New York Outer Continental Shelf Office, Bureau of Land Management, New York, N.Y. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic areas they represent.

OUTER CONTINENTAL SHELF OFFICIAL PROTECTION DIAGRAMS

Description:	*Approval date*
NI 18-2 Manteo	October 31, 1974
NI 18-3	Do.
NJ 18-11 Eastville South	Do.
NJ 18-12	Do.

2. Copies of these diagrams are for sale at two dollars ($2.00) per sheet by the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Suite 3200 The Plaza Tower, 1001 Howard Avenue, New Orleans, La. 70113 and the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, U.S. Custom House Room 600D, 6 World Trade Center, New York, New York 10048. Checks or Money Orders should be made payable to the Bureau of Land Management.

JOHN L. RANKIN,
Manager, New Orleans Outer Continental, Shelf Office.

[FR Doc.75-27103 Filed 10-8-75;8:45 am]

National Park Service

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 9:30 a.m. on Saturday, October 25, 1975, at the Environmental Education Center, Tilden Park, Berkeley, CA.

The purpose of the Golden Gate National Recreation Area Advisory Commission is to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the National Park Service system in Marin and San Francisco counties.

Members of the Advisory Commission are as follows:

Mr. Frank Boerger, Chairman
Mrs. Amy Meyer, Secretary
Mr. Ernest Ayala
Mr. Richard Bartke
Mr. Fred Blumberg
Mr. Lambert Lee Choy
Mrs. Daphne Greene
Mr. Peter Haas, Sr.
Mr. Joseph Mendoza
Mr. John Mitchell
Mr. Merritt Robinson
Mr. William Thomas
Dr. Edgar Wayburn

The major items on the agenda are a briefing on the summer recreation transportation system and a briefing on the status of the Fort Mason interim use program.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact William J. Whalen, General Superintendent, Golden Gate/Point Reyes, Fort Mason, San Francisco, CA 94123, telephone 415-556-2920.

Minutes of the meeting will be available for public inspection by November 28, 1975 in the office of the General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco.

Dated: October 3, 1975.

JOHN H. DAVIS,
Acting Regional Director, Western Region Office.

[FR Doc.75-27330 Filed 10-8-75;8:45 am]

INDEPENDENCE NATIONAL HISTORICAL PARK ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Independence National Historical Park Advisory Commission will be held at 10:30 a.m. on October 28, 1975, at 313 Walnut Street, Philadelphia, Pennsylvania.

The Commission was established by Public Law 80-795 to render advice on such matters relating to the park as may from time to time be referred to them for consideration.

The members of the Commission are as follows:

Mr. Arthur C. Kaufmann (Chairman)
Mr. John P. Bracken
Hon. Michael J. Bradley
Hon. James A. Byrne
Mr. Michael J. Byrne
Mr. Filindo B. Masino
Mr. Frank C. P. McGlinn
Mr. John B. O'Hara
Mr. Howard D. Rosengarten
Mr. Charles R. Tyson

The matters to be considered at this meeting include:

1. Use of Park Facilities in 1976.
2. Plans—Liberty Bell and July 4.
3. Valley Forge Progress.
4. Superintendent's Progress Report.

The meeting will be open to the public. Any person may file with the Commission an oral or written statement concerning the matters to be discussed. Persons desiring further information concerning this meeting, or who wish to submit statements, may contact Hobart G. Cawood, Superintendent, Independence National Historical Park, Philadelphia, Pennsylvania, at Area Code 215, 597-7120.

Minutes of the meeting shall be available for inspection two weeks after the meeting at the office of the Independence National Historical Park, 313 Walnut Street, Philadelphia, Pennsylvania.

Dated: September 30, 1975.

CHESTER L. BROOKS,
Regional Director, Mid-Atlantic Region, National Park Service.

[FR Doc.75-27202 Filed 10-8-75;8:45 am]

Office of the Secretary

OUTER CONTINENTAL SHELF ADVISORY BOARD

Notice of Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Outer Continental Shelf Advisory Board will meet during the period 9:00 a.m. to 4:00 p.m., October 22, in Room 5160, Department of the Interior, 18th & C Streets, N.W., Washington, D.C.

The meeting will cover policy issues related to the Outer Continental Shelf leasing program.

The meeting is open to the public. Interested persons may make oral or written presentations to the committee or file written statements. Such requests should be made to the official listed below not later than October 16.

Further information concerning this meeting may be obtained from Mrs. Carolita Kallaur, Office of OCS Program Coordination, Department of the Interior, Washington, D.C. 20240, telephone 202/343-9314. Minutes of the meeting will be available for public inspection and copying three weeks after the meeting at the Office of OCS Program Coordination, Room 4126, Department of the Interior, 18th & C Streets, N. W., Washington, D. C.

KENT FRIZZELL,
Acting Secretary of the Interior.

OCTOBER 7, 1975.

[FR Doc.75-27247 Filed 10-8-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

[Notice of Designation Number A261]

LOUISIANA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Allen Parish, Louisiana, as a result of a natural disaster consisting of persistent heavy rainfall April 29 to July 2, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Edwin Edwards that such designation be made.

Applications for Emergency loans must be received by this Department no later than November 17, 1975, for physical losses and June 17, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 3rd day of October, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-27211 Filed 10-8-75;8:45 am]

[Notice of Designation Number A260]

MONTANA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Carter County, Montana, as a result of a natural disaster consisting of a snowstorm March 21, 22 and 23, 1975, which continued intermittently for two weeks, and extensive flooding May 5 and 6, 1975.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 94–68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Thomas L. Judge that such designation be made.

Applications for Emergency loans must be received by this Department no later than November 17, 1975, for physical losses and June 17, 1976, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans.

The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 2nd day of October, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-27151 Filed 10-8-75;8:45 am]

Forest Service

MULTIPLE USE PLAN, O'BRIEN-SEVENTEENMILE-CROSS MOUNTAIN PLANNING UNITS

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture has prepared a draft environmental statement for O'Brien-Seventeenmile-Cross Mountain Planning Units, Forest Service Report Number R1-76-7 USDA-FS-DES (Adm).

The environmental statement concerns a proposed implementation of a revised multiple use plan for the O'Brien-Seventeenmile-Cross Mountain Planning Units, Troy, Libby and Yaak Ranger Districts, Kootenai National Forest, and located in Lincoln County, Montana. The proposal affects approximately 146,500 acres of National Forest lands which have been stratified into twelve management situations or units with similar resource implications.

This draft environmental statement was filed with CEQ October 3, 1975.

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

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. and Independence Ave., SW., Washington, D.C. 20250.
USDA, Forest Service, Northern Region, Federal Building, Missoula, MT 59801.
Supervisor's Office, Kootenai National Forest, 418 Mineral Avenue, Libby, MT 59923.
USDA, Forest Service, Troy Ranger Station, Troy Ranger District, Troy, MT 59935.
USDA Forest Service, Libby Ranger Station, Libby Ranger District, Libby, MT 59923.
USDA, Forest Service, Yaak Ranger District, Sylvanite Ranger Station, Troy, MT, 59935.

A limited number of single copies are available upon request to Forest Supervisor, Floyd J. Marita, Kootenai National Forest, Box AS, Libby, MT 59923.

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

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Floyd J. Marita, Kootenai National Forest, 418 Mineral Avenue, Libby, MT 59923. Comments must be received by December 4, 1975, in order to be considered in the preparation of the final environmental statement.

Dated: October 3, 1975.

FLOYD J. MARITA,
Forest Supervisor, Kootenai National Forest, Northern Region.

[FR Doc.75-27132 Filed 10-8-75;8:45 am]

Rural Electrification Administration

DAIRYLAND POWER COOPERATIVE, LACROSSE, WISCONSIN

Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $55,095,000 to Dairyland Power Cooperative (Dairyland) of LaCrosse, Wisconsin. These loan funds will be used to finance 30 percent of a 350 MW steam generating plant to be constructed near Alma, Wisconsin, and related 161 kV transmission outlet facilities. The loan guarantee notice for the remaining 70 percent of this project appeared in the September 30, 1974, Federal Register and arrangements have been consummated among REA, Dairyland and the Federal Financing Bank for $121,591,000 to finance this 70 percent of the project.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John Madgett, Manager, Dairyland Power Cooperative, 2615 East Avenue, South, LaCrosse, Wisconsin 54601.

In order to be considered, proposals must be submitted (within 30 days from the date of this notice) to Mr. Madgett. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Dairyland and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 2nd day of October, 1975.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.

[FR Doc.75-27152 Filed 10-8-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

GREAT LAKES FARMS AND LA PEER MUSHROOM CORP.

Notice of Petition for Determination

A single petition for certification of eligibility to apply for adjustment assistance submitted jointly by Great Lakes Farms and La Peer Mushroom Corporation of Imlay City, Michigan, related entities assertedly owned and controlled by substantially the same group of persons, was accepted for filing on October 3, 1975, under Section 251 of the Trade Act of 1974 and in conformity with Adjustment Assistance Certification Regulations for Firms, 15 CFR, Part 350, 40 FR 14291 (April 3, 1975) (the "Regulations"). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States contributed importantly to total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of the petitioning firms. The petitioners assert that imported articles classified in items 144.10, 144.12 and 144.20 of the Tariff Schedules of the United States ("TSUS") are like or directly competitive with mushrooms produced by the firms.

Any party having a substantial interest in the subject matter of the proceedings (as described in § 350.40(b) of the Regulations) may request a public hearing on the matter. A request for a hearing conforming to § 350.40 of the Regulations must be received by the Director, Office of Trade Adjustment Assistance, Room 3011, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on October 20, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.106, Trade Adjustment Assistance.)

CHARLES L. SMITH,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-27180 Filed 10-8-75;8:45 am]

GREAT LAKES MUSHROOM COOPERATIVE, INC.

Notice of Petition for Determination

A petition by Great Lakes Mushroom Cooperative, Inc., of Warren, Michigan, was accepted for filing on October 3, 1975, under Section 251 of the Trade Act of 1974 and in conformity with Adjustment Assistance Certification Regulations for Firms, 15 CFR, Part 350, 40 FR 14291 (April 3, 1975) (the "Regulations"). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm. The petitioner asserts that imported articles classified in items 144.10, 144.12 and 144.20 of the Tariff Schedules of the United States ("TSUS") are like or directly competitive with mushrooms processed by the firm.

Any party having a substantial interest in the subject matter of the proceedings (as described in § 350.40(b) of the Regulations) may request a public hearing on the matter. A request for a hearing conforming to § 250.40 of the Regulations must be received by the Director, Office of Trade Adjustment Assistance, Room 3011, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on October 20, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.106, Trade Adjustment Assistance.)

CHARLES L. SMITH,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-27179 Filed 10-8-75;8:45 am]

MARZETTI BROTHERS, INC., ET AL.

Notice of Petition for Determination

A single petition for certification of eligibility to apply for adjustment assistance submitted jointly by Marzetti Brothers, Inc., of Utica, Michigan, and MGM, Inc., and Dryden Farms, Inc., of Dryden, Michigan, related entities assertedly owned and controlled by substantially the same group of persons, was accepted for filing on October 3, 1975, under Section 251 of the Trade Act of 1974 and in conformity with Adjustment Assistance Certification Regulations for Firms, 15 CFR, Part 350, 40 FR 14291 (April 3, 1975) (the "Regulations"). Consequently, the United States Department of Commerce has instituted an investigation to determine whether increased imports into the United States contributed importantly to total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of the petitioning firms. The petitioners assert that imported articles classified in items 144.10, 144.12, and 144.20 of the Tariff Schedules of the United States ("TSUS") are like or directly competitive with mushrooms produced by the firms.

Any party having a substantial interest in the subject matter of the proceedings (as described in § 350.40(b) of the Regulations) may request a public hearing on the matter. A request for a hearing conforming to § 350.40 of the Regulations must be received by the Director, Office of Trade Adjustment Assistance, Room 3011, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on October 20, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.106, Trade Adjustment Assistance.)

CHARLES L. SMITH,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc.75-27181 Filed 10-8-75;8:45 am]

UNIVERSITY OF CALIFORNIA, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1975.)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 301.8 of the Regulations provides in pertinent part:

> The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90 day period. * * * If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of Subsection 301.11.

The meaning of the subsection is that should an applicant either fail to notify the Deputy Assistant Secretary of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20 day period, or fails to resubmit a new application within the 90 day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satis-

fied the requirements set forth above, therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 301.8 further provides:

* * * the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission to the *Federal Register* for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Deputy Assistant Secretary.

Docket Number: 75-00121-33-46500. Applicant: University of California/San Francisco, Coleman Memorial Laboratory, HSE-863, 3rd and Parnassus Streets, San Francisco, Calif. 94143. Article: Ultramicrotome, Model LKB 8800A and accessories. Date of denial without prejudice to resubmission: June 3, 1975.

Docket Number: 75-00122-33-46500. Applicant: University of Oregon, Eugene, Oregon 97403. Article: Ultramicrotome, LKB 8800A and accessories. Date of denial without prejudice to resubmission: June 3, 1975.

Docket Number: 75-00132-33-46500. Applicant: Presbyterian-University of Pennsylvania Medical Center, Scheie Eye Institute, 51 North 39th Street, Philadelphia, Pa. 19104. Article: Ultramicrotome, Model LKB 8800A. Date of denial without prejudice to resubmission: June 3, 1975.

Docket number: 75-00189-33-46500. Applicant: University of South Florida Medical School, 4202 Fowler Avenue, Tampa, Florida 33620. Article: Ultramicrotome, Model LKB 8800A. Date of denial without prejudice to resubmission: June 3, 1975.

Docket number: 75-00364-98-81095. Applicant: Cornell University, Department of Chemistry, Baker Laboratory, Ithaca, New York 14853. Article: Talystep with measuring unit, Electronics Unit and Recorder. Date of denial without prejudice to resubmission: June 10, 1975.

Docket number: 75-00385-99-46070. Applicant: Georgia Institute of Technology, 888 Hemphill Avenue, N.W., Atlanta, Georgia 30332. Article: Table Top Scanning Microscope, Model MSM-5. Date of denial without prejudice to resubmission: June 13, 1975.

Docket number: 75-00389-89-46070. Applicant: Carnegie Institution of Washington, Geophysical Laboratory, 2801 Upton Street, N.W., Washington, D.C. 20008. Article: Scanning Electron Microscope, Model JSM-35U. Date of denial without prejudice to resubmission: June 3, 1975.

Docket number: 75-00399-01-77040. Applicant: Grand Forks Energy Research Center, Energy Research and Development Administration, Box 8213, University Station, Grand Forks, N.D. 58202. Article: Mass Spectrometer, Model MS 3074 and Data System, DS-50. Date of denial without prejudice to resubmisison: June 3, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Acting Director,
Special Import Programs Division.

[FR Doc.75-27182 Filed 10-8-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

OCCUPATIONAL SAFETY AND HEALTH

Request for Information on Acetylene Tetrachloride

Section 20(a)(3) of the Occupational Safety and Health Act of 1970 [29 U.S.C. 669(a)(3)] provides that the Secretary of Health, Education, and Welfare, on the basis of information available to him, shall develop criteria dealing with toxic materials which will describe exposure levels that are safe for various periods of employment. Section 22(c) of the Act authorizes the National Institute for Occupational Safety and Health (NIOSH) to develop recommended occupational safety and health standards and to perform all functions of the Secretary of Health, Education, and Welfare, under sections 20 and 21 of the Act. NIOSH is proposing to develop a criteria document containing recommended occupational health standards for acetylene tetrachloride.

The criteria document will include among other items an evaluation of available information relative to the areas listed below.

Any person having information or data in any of the areas listed below, or in other areas considered relevant to the establishment of a safe and healthful occupational environment involving this substance is requested to submit such information, with accompanying documentation to Director, Office of Research and Standards Development, NIOSH, 5600 Fishers Lane, Park Building, Room 3-18, Rockville, Maryland 20852 within 90 days.

1. Establishment of safe occupational environmental levels for this agent including levels for acute and chronic exposure to airborne concentrations of the chemical agent as well as safe practices concerning direct contact with such agent.

2. Establishment of biologic standards i.e., the levels of such agents, metabolites, or other effects of exposure which may be present within man without his suffering ill effects taking into consideration (a) the correlation of airborne concentrations of, and extent of exposure to such substance with effects on specific biologic systems of man such as the circulatory, respiratory, urinary, and nervous system, and (b) the analytical method for determining the amount of the substance which may be present within man.

3. Engineering controls, including ventilation, environmental temperature, humidity, and housekeeping and sanitation procedures, with attention to the technological feasibility of such controls.

4. Specifications for the conditions under which personal protective devices should be required.

5. Methods, including instruments, for air sampling and sample analysis of the chemical agent and methods of measuring levels of exposure to the physical agent.

6. The need for medical examinations for workers exposed to such an agent, the frequency of such examinations, and the specific diagnostic tests which should be used and the rationale of their selection.

7. Work practices or procedures which may be instituted for control of the workplace environment in normal operations and those which may be instituted when occupational environmental levels are temporarily exceeded or where peak concentrations of chemical agents in man are reached.

8. The types of records concerning occupational exposure to such an agent that employers should be required to maintain.

9. Warning devices and labels which should be required for the prevention of occupational diseases and hazards caused by such an agent.

All information received concerning this substance will be available for public inspection after the development of the respective criteria document.

Dated: October 2, 1975.

EDWARD J. BAIER,
Acting Director, National Institute for Occupational Safety and Health.

[FR Doc.75-27133 Filed 10-8-75;8:45 am]

Food and Drug Administration

[Docket No. 75N-0140]

MEDICAL DEVICE GOOD MANUFACTURING PRACTICE DRAFT REGULATIONS

Notice of Public Meetings

The Commissioner of Food and Drugs announces a series of public meetings to allow all interested persons an opportunity to present data, technical information, and views concerning the draft medical device good manufacturing practice (GMP) regulations, which were made available to the public through a notice of availability published in the FEDERAL REGISTER of August 8, 1975 (40 FR 33482). There will be four public meetings. The locations, dates, and contact persons for each location are as follows:

1. Dallas, TX, Monday, November 3, 1975. Contact Mr. Jerry Henderson, (214) 749-2735, Food and Drug Administration, 3032 Bryan St., Dallas, TX 75204.

2. San Francisco, CA, Tuesday, November 4, 1975. Contact Mr. Ron Fisher, (415) 556-2062, Food and Drug Administration, 50 Fulton St., Rm. 526, San Francisco, CA 94102.

3. Chicago, IL, Thursday, November 6, 1975. Contact Mr. George McDonald,

(312) 353–1046, Food and Drug Administration, 175 West Jackson Blvd., Rm. A–1945, Chicago, IL 60604.

4. Washington, DC, Monday, November 10, 1975. Contact Mr. William McVicker or Ms. Pat Kunze, (301) 443–4627, Bureau of Medical Devices and Diagnostic Products, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Those planning to attend are requested to notify the appropriate FDA contact person to assure that adequate space will be available. The contact persons will be able to supply the time and meeting location prior to the meeting date.

The format of the public meetings will consist of a presentation by FDA personnel on the draft medical device GMP, followed by a question and answer session. The purpose of these meetings is to inform all interested persons about the draft GMP and to allow specific questions to be raised and answered prior to publishing medical device good manufacturing practice regulations as a proposal in the FEDERAL REGISTER.

Copies of the draft medical device good manufacturing practice regulations will be available at these meetings, or prior to those dates by writing to the Bureau of Medical Devices and Diagnostic Products, Attn: GMP, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Dated: October 3, 1975.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.75-27108 Filed 10-8-75;8:45 am]

Office of Education

LIBRARY TRAINING PROGRAM

Notice of Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in Part B of Title II of the Higher Education Act of 1965 (20 U.S.C. 1021, 1031, and 1033), applications are being accepted from institutions of higher education and library organizations and agencies for library training grants for institutes, fellowships, and traineeships. Processing of these applications will be subject to the availability of funds.

Applications must be received by the U.S. Office of Education Application Control Center on or before December 15, 1975.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attention: 13:468. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 10, 1975, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

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

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Office of Libraries and Learning Resources, Division of Library Programs, Bureau of School Systems, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. 20202, Attention: 13:468.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the regulations governing training in librarianship published in the FEDERAL REGISTER on May 17, 1974 at 17540 (45 CFR Part 132).

(20 U.S.C. 1021, 1031, and 1033)

(Catalog of Federal Domestic Assistance Number 13.468; Training in Librarianship Program)

Dated: September 19, 1975.

DUANE J. MATTHEIS,
Acting U.S. Commissioner of Education.

[FR Doc.75-27200 Filed 10-8-75;8:45 am]

Health Resources Administration

NATIONAL ADVISORY COUNCIL ON HEALTH PLANNING AND DEVELOPMENT

Notice of Chartering

Pursuant to the Federal Advisory Committee Act of October 6, 1972, Public Law 92–463, (86 Stat. 770–776) the Health Resources Administration announces the chartering by the Secretary, DHEW, of the National Advisory Council on Health Planning and Development on September 29, 1975, pursuant to Public Law 93–641.

Designation: National Advisory Council on Health Planning and Development.

Purpose: The Council will advise, consult with, and make recommendations to the Secretary with respect to (1) the development of national guidelines concering health planning policy, (2) the implementation and administration of Title VX, National Health Planning and Development, and Title XVI, Health Resources Department, and (3) an evaluation of the implications of new medical technology for organizations, delivery, and equitable distribution of health care services.

Authority for this Council is continuous and a charter will be filed every two years in accordance with section 14(b)(2) of Public Law 92–463.

Dated: October 3, 1975.

JAMES A. WALSH,
Associate Administrator for Operations and Management, Health Resources Administration.

[FR Doc.75-27101 Filed 10-8-75;8:45 am]

NATIONAL ADVISORY COUNCILS

Notice of Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory bodies scheduled to assemble during the month of November 1975:

Name: National Advisory Council on Health Professions Education.

Date and time: November 10–11, 1975, 8:30 a.m.

Place: Conference Room 4, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.

Open for entire session.

Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions.

Agenda: The Council will meet for the purpose of considering and establishing program priorities, formulating recommendations with respect to effective administration of the Financial Distress Program, and considering progress reports on the recruitment and retention of minorities and on other subjects.

The meeting is open to the public for observation and participation. Anyone wishing to obtain a roster or other relevant information should contact Mrs. Lynn Stevens, Building 31, Room 4C–02, National Institutes of Health, Bethesda, Maryland 20014, Telephone (301) 496–6601.

Name: National Advisory Council on Nurse Training.

Date and time: November 10–12, 1975, 10:30 a.m.

Place: Conference Room 6, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.

Open on November 10, 10:30 a.m.–12:00 noon. Closed remainder of meeting.

Purpose: The Council performs final review of applications for construction projects, special projects for the improvement of nurse training, and research grants.

Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of previous meeting; discussion of future dates; and administrative and staff reports. During the closed session, the

Council will conduct a final review of grant applications for Federal assistance, and will not be open to the public, in accordance with the provisions set forth in section 552(b)(5) and 552(b)(6), U.S. Code and the Determination by the Administrator, Health Resources Administration, pursuant to Public Law 92-463.

That portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to obtain a roster or other relevant information should contact Dr. Mary S. Hill, Federal Building, Room 6C08, 9000 Rockville Pike, Bethesda, Maryland 20014, Telephone (301) 496-6985.

Agenda items are subject to change as priorities dictate.

Dated: October 2, 1975.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.75-27102 Filed 10-8-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition No. HS-75-16]

SAVANNAH STATE DOCKS RAILROAD CO.

Petition for Exemption From Hours of Service Act

The Savannah State Docks Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for an exemption, with respect to certain employees, from the Hours of Service Act, 45 U.S.C. secs. 61, 62, 63 and 64.

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-75-16, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before November 10, 1975, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on October 3, 1975.

DONALD W. BENNETT,
Chief Counsel,
Federal Railroad Administration.

[FR Doc.75-27130 Filed 10-8-75;8:45 am]

ACTION

NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

Notice of Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following Council meeting:

Name: National Voluntary Service Advisory Council.

Date: November 10 and 11, 1975.

Place: ACTION, 806 Connecticut Avenue, N.W., Washington, D.C., Room 522.

Time: 9 a.m.

Purpose of the meeting: to discuss the work of each of the Council's committees and to continue preparations for the Annual Report of the Advisory Council.

Meeting of the Advisory Council is open to the public. Public attendance depending on available space, may be limited to those persons who have notified the Advisory Council Executive Officer in writing at least five days prior to the meeting, of their intention to attend the meeting.

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 Council Executive Officer may allow public presentation of oral statements at the meeting.

All communications regarding this Advisory Council should be addressed to Ms. JoAnn Giordano, Advisory Council Executive Officer, 806 Connecticut Avenue, N.W., Washington, D.C. 20525.

JOANN GIORDANO,
Staff Assistant,
Office of the Director.

[FR Doc.75-27090 Filed 10-8-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 27881, 26141, 27287]

TRANSPORTERS AEREOS NACIONALES, S.A. (TAN), AND SERVICIO AEREO DE HONDURAS, S.A. (SAHSA)

Foreign Carrier Permit Renewal; Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provision of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled consolidated proceedings, which was assigned to be held November 6, 1975 (40 F.R. 42044, September 10, 1975), is postponed to November 25, 1975, at 10:00 a.m. (local time) and will be held in Room 1003, Hearing Room C, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., October 3, 1975.

[SEAL] DEE C. BLYTHE,
Administrative Law Judge.

[FR Doc.75-27201 Filed 10-8-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50039; FRL 441-6]

PPG INDUSTRIES, INC.

Issuance of Experimental Use Permit

Pursuant to section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), an experimental use permit has been issued to PPG Industries, Inc., Pittsburgh, Pennsylvania 15222. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172; Part 172 was published in the FEDERAL REGISTER on April 30, 1975 (40 FR 18780), and defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 748-EUP-9) allows the use of 127,500 pounds of the fungicide sodium azide for suppression of soil-borne organisms (*Rhizoctonia, Verticillium, Pythium,* and *Fusarium*) on potatoes, tomatoes, and beans. A total of 4,000 acres is involved; the program is authorized only in the State of Florida. The experimental use permit is effective from September 19, 1975, to September 19, 1976. Temporary tolerances for residues of the active ingredient have been established in or on the above raw agricultural commodities.

Interested parties wishing to review the experimental use permit are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permit may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: October 2, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.75-27233 Filed 10-8-75;8:45 am]

[FRL 441-5]

MARINE SANITATION DEVICE FOR THE STATE OF MICHIGAN

Receipt of Petition

Notice is hereby given that a petition has been received from the State of Michigan requesting a determination by the Administrator, Environmental Protection Agency, pursuant to section 312 (f)(3) of Pub. L. 92-500, that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Michigan waters of Lakes Michigan, Huron, Superior, Erie, and St. Clair, all waterways connected thereto, and all inland lakes. The petitioner requests that any determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all commercial vessels for the above waters be made effective two years after the date of any initial determination.

The petition states that as of 1972 the Michigan Department of Natural Resources was aware of 49 public marinas, 104 commercial marinas, and 19 private marinas with pump-out facilities to serve the recreational boating fleet. The Department estimates that this number now exceeds 200. A listing of vessel pump-out facilities in Michigan has been submitted with the petition for both recreational and commercial craft.

This petition represents a resubmission on the part of the State of Michigan. On April 25, 1975, notice was published that the State of Michigan had petitioned the Administrator, Environmental Protection Agency, by regulation, to completely prohibit the discharge from a vessel of any sewage (whether treated or not) into the Michigan waters of Lakes Michigan, Huron, Superior, Erie, and St. Clair, all waterways connected thereto, and all inland lakes. This petition was filed pursuant to section 312(f)(4) of Pub. L. 92-500 (40 FR 18217, April 25, 1975). The petition identified in the April 25, 1975 notice was denied on the ground that no substantiating information had been submitted showing that the designated waters required water quality protection greater than that afforded by the Federal standard (40 FR 36797, August 22, 1975).

Comments and views regarding the requested action described herein may be filed on or before November 24, 1975. Such communications, or requests for a copy of the applicant's petition, should be addressed to the Director, Criteria and Standards Division (WH-551), Office of Water Planning and Standards, OWHM, Room 737 East Tower, Waterside Mall, Washington, D.C. 20460.

Dated: October 3, 1975.

ANDREW W. BREIDENBACH,
Acting Assistant Administrator for Water and Hazardous Materials.

[FR Doc.75-27232 Filed 10-8-75;8:45 am]

[OPP-33000/324; FRL 441-7]

RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington DC 20460.

On or before December 8, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after December 8, 1975.

Dated: October 2, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 35039-R. Bakersfield Ag-Chem, Inc., Rt. 1, Box 858, Bakersfield CA 93308. BAKERSFIELD AG-CHEM, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 36430-R. Better Living Laboratories, Inc., 2873 Director's Cove, Memphis TN 38131. H20K PORTABLE DRINKING WATER TREATMENT UNIT. Active Ingredients: Metallic Silver 1.05%. Republished: Method of Support changed from 2(c) to 2(b) of interim policy. PM33

EPA File Symbol 35925-R. By Pas Inter. Corp., PO Box 14, Hudsonville MI 49426. BY*PAS PLUS. Active Ingredients: Sodium metasilicate 3.0%; n-Alkyl (50% C14, 40% C12, 10% C16) dimethyl benzyl ammonium chloride 1.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM33

EPA File Symbol 10471-G. C & B Chemical Co., 3706 Raymond St., Houston TX 77007. C & B MINT 15 DISINFECTANT. Active Ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 4.00%; Methylsalicylate 1.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 9018-U. Collier Carbon & Chemical Corp., PO Box 60455, Los Angeles CA 90060. COLLIER CARBON AND CHEMICAL CORPORATION TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 4829-LU. Costal Chemical Co., 190 Jony Dr., Carlstadt NJ 07072. ISOCLOR II SUPER STABILIZED CHLORINE TABLETS. Active Ingredients: Sodium Dichloro-s-Triazinetrione Dihydrate 100.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM34

EPA Reg. No. 279-2922. FMC Corp., Agricultural Chemical Div., 100 Niagra St., Middleport NY 14105. FURADAN 5% G. Active Ingredients: Carbofuran 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM12

EPA File Symbol 4087-A. Industrial Chemical Co. of San Francisco Inc., 2655 Ingalls St. San Francisco CA 94124. INDCO-SEPT SWIMMING POOL ALGAECIDE. Active Ingredients: Alkyl (C14 60%, C12 25%, C16 15%) Dimethyl Benzyl Ammonium Chloride 10%. Method of Support: Application proceeds under 2(b) of interim policy. PM24.

EPA File Symbol 9647-ER. Masury-Columbia Co., 1502 N. 25th Ave., Elmhurst IL 60126. MYCO SANITIZER NR DISINFECTANT, SANITIZER, DEODORIZER. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 0.64%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 0.64%. Method of Support: Application proceeds under 2(b) of interim policy. PM31.

EPA File Symbol 4467-G. Milprint, Inc., 4200 N. Holton St., Milwaukee WI 53201. MILPRINT MIL-SHIELD PACKAGING. Active Ingredients: Pyrethrins 0.04%; Piperonyl Butoxide, technical 0.40%. Method of Support: Application proceeds under 2(c) of interim policy. PM17.

EPA Reg. No. 3125-49. Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120. DYLOX 50% SOLUBLE POWDER CROP INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphanate 50%. Method of Support: Application proceeds under 2(b) of interim policy. PM16.

EPA Reg. No. 3125-184. Chemagro Agricultural Div., Mobay Chemical Corp. DYLOX 80% SOLUBLE POWDER CROP INSECTICIDE. Active Ingredients: Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphanate 80%. Method of Support: Application proceeds under 2(b) of interim policy. PM16.

EPA File Symbol 3125-GNT. Chemagro Agricultural Div., Mobay Chemical Corp. DISYSTON 8 EMULSIFIABLE SYSTEMIC INSECTICIDE. Active Ingredients: O,O-Diethyl *S*-[2-(ethylthio)thyl] phosphorodithioate 85%; Aromatic Petroleum Distillate 3%. Method of Support: Application proceeds under 2(b) of interim policy. PM15.

EPA File Symbol 6020-RL. MOM Chemical Co., Inc., 7775 NW 66th St., Miami FL 33166. DY-NAMO SUPER DISINFECTANT-DETERGENT-DEODORANT. Active Ingredients: Alkyl (C14 90%, C12 5% C16 5%) dimethyl dichlorobenzyl ammonium chloride 2.50%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 1.25%; Alkyl (C14 90%, C12 5%, C16 5%) dimethyl ethyl ammonium bromide 1.25%; Sodium carbonate 1.00%; Sodium metasilicate 1.00%; Essential oils 0.50%; Ethylenediaminetetraacetic acid, tetrasodium salt 0.38%. Method of Support: Application proceeds under 2(c) of interim policy. PM33.

EPA File Symbol 6020-RU. MOM Chemical Co., Inc., 7775 NW 66th St., Miami FL 33166. DY-NAMO DISINFECTANT-DETERGENT-DEODORANT. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl dichlorobenzyl ammonium chloride 1.250%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 0.625%; Alkyl (C14 90%, C12 5%, C16 5%) dimethyl ethyl ammonium bromide 0.625%; Sodium carbonate 0.500%; Sodium metasilicate 0.500%; Essential oils 0.250%;

Ethylene-diaminetetraacetic acid, tetrasodium salt 0.190%. Method of Support: Application proceeds under 2(c) of interim policy. PM33

EPA File Symbol 7001-ENT. Occidental Chemical Co., Div. of Occidental Petroleum Corp., PO Box 193, Lathrop CA 95330. METHYL PARATHION 25 MP. Active Ingredients: Methyl Parathion (O,O-Dimethyl O-p-nitrophenyl phosphorothioate) 25%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 11682-EL. J. R. Simplot Co., Minerals & Chemical Div., PO Box 912, Pocatello ID 83201. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 35957-R. Southern Valley Chemical Co., PO Box 181, Arvin CA 93203. SOUTHERN VALLEY CHEMICAL CO. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM 21

EPA File Symbol 9619-T. Synthetic Labs. Inc., Victory Lane, Dracut MA 01826. GC SUPER 10 DISINFECTANT-SANITIZER-FUNGICIDE-DEODORIZER. Active Ingredients: Alkyl (C14 60%, C16 30%, C12 5%, C18 5%) Dimethyl Benzyl Ammonium Chloride 5.0%; Alkyl (C12 68%, C14 32%) Dimethyl Ethylbenzyl Ammonium Chlorides 5.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 7546-RI. United States Chemical Corp., PO Box 366, Watertown WI 53094. EMERGE NO. 75. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 4.5%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 4.5%; Tetrasodium ethylenediamine tetraacetate 2.0%; Sodium Carbonate 4.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM31

EPA File Symbol 35919-R. Water Purification Technology, Inc., 527 Madison Ave., New York, N.Y. 10022. THE PUREWATER MAKER NEW AND IMPROVED. Active Ingredients: Metallic Silver 1.05%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

[FR Doc.75-27234 Filed 10-8-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 774]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 6, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's Rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to Section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to §§21.27 of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20492-CD-MP-(2)-76—Lubbock Radio Paging Service, Inc. (KKE970). Modification of Permit to change antenna system and relocate facilities operating on 454.275 & 454.350 MHz located at Metro Tower, Broadway and Avenue L, Lubbock, Texas.

20518-CD-ML-76—Auto Phone Company (KME439). Modification of License to change frequency from 454.15 MHz to 454.-05 MHz at Loc. #1: Pilot Peak, California.

20551-CD-P/L-76—Baxley Radio Telephone, Inc. (KLF581). Reinstatement of an expired license operating on 152.21 MHz located at 109 Park Avenue, Baxley, Georgia.

20552-CD-P-76—Contact of Washington, Inc. (KGA806). C.P. to add antenna Loc. #2 operating on 43.58 MHz located at National Press Bldg., 14th & F Sts., N.W., Washington, D.C.

20553-CD-P-(4)-76—Michigan Bell Telephone Company (KQD605). C.P. to change antenna system operating on 152.63 MHz, and replace transmitter; additional facilities to operate on 152.66 & 152.81 MHz; and add standby frequencies operating on 152.66 & 152.81 MHz located 2.75 miles West of Traverse City, Michigan.

20554-CD-AP-76—Empire Paging Corporation. Consent to Assignment of C.P. from Empire Paging Corporation Assignor, to New Jersey Mobile Telephone Co., Inc., Assignee. Station: KWU200 Beachwood, New Jersey (formerly granted under Call Sign KEJ886). For particulars see PN #768-A, dated 8-25-75. File No. 20807-CD-P-(4)-74.

20555-CD-P-76—Contact, Inc. (KGA807). C.P. to add antenna Loc. # 5 to operate on 35.22 MHz to be located at 7300 Ritchie Highway, Glen Burnie, Maryland.

20556-CD-P-76—Colton Telephone Company (KOK339). C.P. for additional facilities to operate on 454.400 MHz located on Goat Mtn., 8.1 miles SE of Colton, Oregon.

20557-CD-P-76—The Conestoga Telephone & Telegraph Company (KGI769). C.P. to change antenna system and location operating on 35.22 MHz located on Gibraltar Hill 0.5 mile West of Seyfert, Pennsylvania.

20558-CD-P-76—Continental Telephone Company of California (KMM663). C.P. to change antenna system operating on 152.54 MHz located at Highland Street, Lucerne Valley, California.

20559-CD-MP-(2)-76—The Conestoga Telephone & Telegraph Company (KUS323). Modification of Permit to change antenna system operating on 454.375 & 454.525 MHz located at Gibraltar Hill ½ mile West of Seyfert, Pennsylvania.

20560-CD-P-76—William G. Bowles, Jr., dba Mid-Missouri Mobilfone (New). C.P. for a new 2-way station to operate on 152.06 MHz to be located at KPOB-TV Tower, North Highway 67, Poplar Bluff, Missouri.

20561-CD-P-(3)-76—Capitol Radiotelephone Co., Inc. (New). C.P. for a new 2-way station to operate on 152.09 MHz to be located 13.2 miles SSE of Beckley, West Virginia.

20562-CD-P-76—Southwestern Bell Telephone Company (KKC263). C.P. to change antenna system and location operating on test facilities 157.77, 157.80, 157.89, & 158.01 MHz, located at 9th & Colorado Streets, Austin, Texas.

20563-CD-P-(2)-76—Empire Mobilcomm Systems, Inc. (KLF595). C.P. to add antenna Loc. #2 to operate base facilities on 152.24 MHz to be located at Coburg Ridge, 3 miles NNE of Eugene, Oregon; and Loc. #3 to operate control facilities on 454.05 MHz to be located at 392 E. 3rd, Eugene, Oregon.

20564-CD-P-76—Telanswer Radiophone Service (New). C.P. for a new 1-way station to operate on 158.70 MHz to be located at 610 Main Avenue, North, Twin Falls, Idaho.

20565-CD-P-76—Radiopaging, Inc. (KIE367). C.P. to add antenna Loc. #4 to operate on 43.58 MHz to be located at 12500 NW 92 Avenue, Miami, Florida.

20566-CD-P-(2)-76—Western Communications Service (KKG416). C.P. to change antenna system operating on 152.03 MHz and for additional facilities to operate on 152.15 MHz located at 320 West 26th Street, San Angelo, Texas, Loc. #1.

20567-CD-P-76—Answer Iowa, Inc. (New). C.P. for a new 1-way station to operate on 158.70 MHz to be located at 5th Avenue West at 12th Street, Duluth, Minnesota.

20568-CD-P-76—Tel-Car Corporation (KRM 961). C.P. to add antenna Loc. #4 to operate on 152.24 MHz to be located at 12500 NW 92nd Avenue, Miami, Florida.

20569-CD-P-76—Eagle Aviation, Inc. (New) (Resubmitted). C.P. for a new 2-way station to operate on 454.125 & 454.175 MHz to be located on Television Rd., 1000 North Trolly Lane Road, Aiken, South Carolina.

20570-CD-MP-76—Digital Paging Systems of Pittsburgh, Inc. (KWB370). C.P. to replace transmitter operating on 152.24 MHz located at Duquesne Reservoir, West Mifflin Boro, Pennsylvania, Loc. #2.

20571-CD-P-(2)-76—Denver & Ephrata Telephone & Telegraph Company (KGI 782). C.P. for additional facilities to operate on 152.84 MHz at Loc. #1: Ephrata Township Rd., 0.8 mile East of Ephrata, Pennsylvania; and additional facilities to operate on 152.84 MHz at Loc. #2: Marietta & West End Avenue, Lancaster, Pennsylvania.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's Rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).

20572-CD-P-(5)-76—CFR Corporation dba Mobilfone of Baton Rouge (KKX707). C.P. for additional facilities to operate on 454.050, 454.125, 454.175, 454.250, & 454.275 MHz located at 451 Florida Avenue, Baton Rouge, Louisiana.

20573-CD-P-(2)-76—Filer Mutual Telephone Company (KLF466). C.P. to change antenna system operating on 152.72 MHz and for additional facilities to operate on 152.54 MHz located at 405 Main Street, Filer, Idaho.

RURAL RADIO SERVICE

60180-CR-P/L-76—The Mountain States Telephone & Telegraph Company (New). C.P. for a new rural subscriber station operating on 157.80 MHz to be located at Gulf American Mining Enterprises, Inc., 3½ miles NW of Wickenburg, Arizona.

POINT-TO-POINT MICROWAVE RADIO SERVICE

The following applications have been received from Southwestern Bell Telephone Company to change station coordinates:

774-CF-ML-76—(KAB53) Viburnum, Missouri. Change from Lat. 37°42'54" N., Long. 91°07'55" W. to Lat. 37°42'44" N., Long. 91°07'57" W.

779-CF-ML-76—(KAY76) Montezuma, Kansas. Change from Lat. 37°35'39" N., Long. 100°26'39" W. to Lat. 37°36'01" N., Long. 100°26'39" W.

781-CF-ML-76—(KBI41) Worden, Kansas. Change from Lat. 38°47'22" N., Long. 95° 26'11" W. to Lat. 38°47'07" N., Long. 95° 26'09" W.

782-CF-ML-76—(KBI42) Cape Girardeau, Missouri. Change from Lat. 37°23'12" N., Long. 89°38'46" W. to Lat. 37°23'16" N., Long. 89°38'26" W.

789-CF-ML-76—(KCM90) Kirksville, Missouri. Change from Lat. 40°11'28" N., Long. 92°34'55" W. to Lat. 40°11'41" N., Long. 92°34'56" W.

794-CF-ML-76—(KKK99) Wayne, Oklahoma. Change from Lat. 34°55'52" N., Long. 97° 22'12" W. to Lat. 34°56'05" N., Long. 97° 21'54" W.

800-CF-ML-76—(KLT52) Seminole, Texas. Change from Lat. 32°43'05" N., Long. 102° 38'36" W. to Lat. 32°42'57" N., Long. 102° 38'48" W.

766-CF-R-76—American Telephone and Telegraph Company (KEF72). Location: Within Continental limits: USA. Applications for Renewal of Radio Station License (Developmental) expiring November 1, 1975. Term: November 1, 1975 to November 1, 1976.

1086-CF-P-76—The Mountain States Telephone and Telegraph Company (KLU90). 13 Miles WNW of Fairacres, New Mexico. Lat. 32°22'23" N., Long. 107°02'53" W. C.P. to add frequency 11175H MHz toward an additional point of communication Pan Am Las Cruces, New Mexico on azimuth 108.9°.

1087-CF-P-76—Matanuska Telephone Association, Inc. (New). East Wire, East DeBarr Street, Anchorage, Alaska. Lat. 61°12' 39" N., Long. 149°44'20" W. C.P. for a new station on frequency 2118.4V MHz toward Government Hill, Alaska on azimuth 101° 39'.

1088-CF-P-76—Same (New). Government Hill, Bluff Drive, Anchorage, Alaska. Lat. 61°13'56" N., Long. 149°52'22" W. C.P. for a new station on frequency 2168.4V MHz toward East Wire, Alaska on azimuth 287° 21'.

1090-CF-P-76—Triangle Telephone Cooperative Association, Inc. (New). Lot 25, Block 8, Original Townsite, Big Sandy, Montana. Lat. 48°10'38" N., Long. 110°06'35" W. C.P. for a new station on frequency 2178.0H MHz toward Big Sandy Jct., Montana (Mtn. Bell) on azimuth 236.5°.

1106-CF-P-76—The Mountain States Telephone and Telegraph Company (WIV22). 5.6 Miles WSW of Kelvin, Arizona. Lat. 33° 04'10" N., Long. 111°03'13" W. C.P. to change polarity from Horizontal to Vertical on frequencies 6197.2 and 6315.9 MHz toward Apache Jct., Arizona.

1082-CF-P-76—Eastern Microwave, Inc. (KEM58). Helderberg Mtn., New York. Lat. 42°38'12" N., Long. 73°59'45" W. C.P. to add 6212.0H MHz toward Mt. Greylock, Mass., on azimuth 89°7'.

1083-CF-P-76—Same (KCL72). Mt. Greylock #2, Vermont. Lat. 42°38'14" N., Long. 73°10'07" W. C.P. to add 6137.9V MHz toward Bennington, Vermont, on azimuth 348°2'; correct station location to the foregoing coordinates; and correct azimuth toward Gore Mtn., New York, to 328°3'.

1084-CF-P-76—Same (KCK70). Mt. Greylock #1, Mass. Lat. 42°38'07" N., Long. 73°09'57" W. C.P. to correct station location to the foregoing coordinates; and change polarity to 6078.6V MHz toward Beech Hill, New Hampshire.

1085-CF-P-76—Same (New). Amherst, Mass. Lat. 42°23'23" N., Long. 72°24'21" W. C.P. for a new station on 6286.2V MHz toward West Springfield, Mass., on azimuth 221°4'. (A waiver of 21.701(i) is requested by Eastern Microwave, Inc.).

1105-CF-P-76—American Microwave and Communications, Inc. (WAH628). Walker, 6.1 Miles West of Grand Rapids, Michigan. Lat. 42°58'31" N., Long. 85°47'27" W. C.P. to change transmitters and add 6256.5V MHz, 6315.9V MHz, and 6375.2V MHz, via power split, toward Holland, Michigan.

1107-CF-P-76—Mountain Microwave Corporation (KZI52). Spring Lake, 9.5 Miles WNW of Danford, South Dakota. Lat. 44°18'20" N., Long. 99°03'35" W. C.P. to add 6345.5H MHz toward Miller, South Dakota, on azimuth 10°9'.

1075-CF-P-76—American Television and Communication Corp. (KYC45). Beauty Lake, 5.0 Miles SE of Silica, Minnesota. Lat. 47°13'00" N., Long. 93°03'37" N. C.P. to add 6345.5H MHz toward Argus, Minnesota, on azimuth 132.6 degrees.

1076-CF-P-76—Same (New). Argus, 6.0 Miles N of Cloquet, Minnesota. Lat. 46°48'37" N., Long. 92°25'12" W. C.P. for a new station on 6093.5V MHz toward Duluth, Minnesota, on azimuth 95.8 degrees. (A waiver of 21.701 (i) is requested by American Television and Communications Corporation.)

1089-CF-MP-76—Same (WAU319). Winter Haven, Florida. Lat. 28°00'46" N., Long. 81°45'45" W. Mod. of C.P. to add 10975.0V MHz, 11135.0V MHz, & 10815.0V MHz toward Plant City, Florida; add 10975.0H MHz, 11135.0H MHz, & 10815.0H MHz toward Lakeland, Florida, on azimuths 267.9 degrees & 273.5 degrees, respectively.

1091-CF-P-76 — M C I Telecommunications Corporation (WAU312). 3.0 Miles SSE of Medina, Ohio. Lat. 41°04'48" n., Long. 81°50'32" W. C.P. to add 6386.2H towards a new point of communication at Nova, Ohio on 256.5 degrees.

1092-CF-P-76—Same (New). 2.3 Miles SSE of Nova, Ohio. Lat. 40°59'55" N., Long. 82°17'02" W. C.P. for a new station on 6034.2V towards Mansfield, Ohio on 211.2 degrees and 6034.2H towards Medina, Ohio on 76.2 degrees.

1093-CF-P-76—Same (New). 3.0 Miles South of Mansfield, Ohio. Lat. 40°41'02" N., Long. 82°55'03" W. C.P. for a new station on 6226.9V towards Chesterville, Ohio on 211.0 degrees and 6286.2H towards Nova, Ohio on 31.0 degrees.

1094-CF-P-76—Same (New). 1.5 Miles NNE of Chesterville, Ohio. Lat. 40°30'08" N., Long. 82°40'37" W. C.P. for a new station on 5945.2V towards Sunbury, Ohio on 215.7 degrees and 5945.2H towards Mansfield, Ohio on 30.9 degrees.

1095-CF-P-76—Same (New). 8.5 Miles SE of Delaware, Ohio. Lat. 40°14'45" N., Long. 82°55'03" W. C.P. for a new station on 6226.9H towards Hilliard, Ohio on 221.5 degrees and 6197.2V towards Chesterville, Ohio on 35.6 degrees.

1096-CF-P-76—Same (New). 2.3 Miles SW of Hilliard, Ohio. Lat. 40°00'37" N., Long. 83°11'16" W. C.P. for a new station on 6004.5V towards Vienna, Ohio on 257.3 degrees; 5974.8H towards Sunbury, Ohio on 41.3 degrees and 10775.0V and 11175.0V towards Columbus, Ohio on 107.6 degrees.

1097-CF-P-76—Same (New). 180 East Broad Street, Columbus, Ohio. Lat. 39°57'48" N., Long. 82°59'46" W. C.P. for a new station on 11665.0V and 11265.0V towards Hilliard, Ohio on 287.7 degrees.

1098-CF-P-76—Same (New). 1.0 Miles North of Vienna, Ohio. Lat 39°56'13" N., Long. 83°36'26" W. C.P. for a new station on 6286.2V towards Byron, Ohio on 239.5 degrees and 6256.5V towards Hilliard, Ohio on 77.1 degrees.

1099-CF-P-76—Same (New). 7 Miles North of Xenia, Ohio. Lat. 39°47'06" N., Long. 83°56'27" W. C.P. for a new station on 5974.8V towards Waynesville, Ohio on 212.1 degrees; 6034.2V towards Vienna, Ohio on 59.3 degrees and 6004.5V towards Dayton, Ohio on 263.0 degrees.

1100-CF-P-76—Same (New). Winter's Bank Tower-2nd. & Main Street, Dayton, Ohio. Lat. 39°45'39" N., Long. 84°11'30" W. C.P. for a new station on 6256.5H towards Byron, Ohio on 82.8 degrees.

1101-CF-P-76—MCI Telecommunications Corporation (New). 4.8 Miles NE of Waynesville, Ohio. Lat. 39°34'14" N., Long. 84°06' 53" W. C.P. for a new station on 6286.2H towards Mason, Ohio on 212.1 degrees and 6256.5V towards Byron, Ohio on 32.0 degrees.

1102-CF-P-76—Same (New). 3.5 Miles South of Mason, Ohio. Lat. 39°19'20" N., Long. 84°19'07" W. C.P. for a new station on 5945.2V towards Cincinnati, Ohio on 214.3 degrees and 6034.2H towards Waynesville, Ohio on 32.4 degrees.

1103-CF-P-76—Same (New). 511 Walnut Street, Cincinnati, Ohio. Lat. 39°06'06" N., Long. 84°30'42" W. C.P. for a new station on 6286.2V towards Mason, Ohio on 34.2 degrees.

606-C1-P-71—Microwave Service Company of Florida (New) Sand Mtn., 5.0 Miles NE of Woodstock, Alabama. Lat. 33°14'11" N., Long. 87°03'16" W. Application amended (a) to change the applicant from Newhouse Alabama Microwave, Inc. to Microwave Service Company of Florida; (b) to relocate Tuscaloosa, Alabama, receive site to Lat. 33°11'52" N., Long. 87°20'05" W. and (c) to change frequency to 5989.7H MHz toward Tuscaloosa, Alabama, on azimuth 264 degrees. (Note: Microwave Service Company of Florida, Inc., pursuant an agreement with Newhouse Alabama Microwave, Inc., proposes to adopt applications, file numbers 606 thru 608-C1-P-71, for the purpose of facilitating the grant of certain mutually exclusive applications.).

CORRECTIONS

South Central Bell Telephone Company (KJK51), Danville, Kentucky. Change file number 445-CF-P-76 to read 455-CF-P-76. All other particulars remain as reported in Public Notice #768 dated August 25, 1975.

4674-CF-ML-75—South Central Bell Telephone Company (KJH23), Louisville, Kentucky. Correct entry to read: 4674-CF-P-75. 521 West Chestnut Street, Louisville, Kentucky. C.P. to delete 6345.5H ONLY toward Brooks, Kentucky. (Rest remains the same as reported on Public Notice dated August 11, 1975, page 8)

4675-CF-ML-75—Same (KJJ58). 2.5 Miles NW of Brooks, Kentucky. Correct entry to read: 4675-CF-P-75. C.P. to delete 595.2H ONLY toward Louisville, Kentucky; 6063.8V ONLY toward Elizabethtown, Kentucky. (Rest remains the same as reported on public notice dated August 11, 1975, page 8)

4676-CF-ML-75—Same (KJJ59), Elizabethtown, Kentucky. Correct entry to read: 4676-CF-P-75. C.P. to delete 6326.9V ONLY toward Brooks, Kentucky; 6345.5H ONLY toward Horse Cave, Kentucky. (Rest remains the same as reported on public notice dated August 11, 1975, page 8)

4677-CF-ML-75—Same (KJJ60), Horse Cave, Kentucky. Correct entry to read: 4677-CF-P-75 C.P. to delete 5945.2H Only toward Elizabethtown, Kentucky; 6093.5H ONLY toward Smiths Grove, Kentucky; and change antenna Only on 10795H and 11035V MHz toward Glasgow, Kentucky. (Rest remains the same as reported on public notice dated August 11, 1975, page 8)

4678-CF-ML-75—Same (KJJ61), Smiths Grove, Kentucky. Correct entry to read: 4678-CF-P-75 C.P. to delete 6197.2H toward Horse Cave, Kentucky and 6345.5H Only toward Bowling Green, Kentucky. (Rest remains the same as reported on public notice dated August 11, 1975, page 8)

4679-CF-ML-75—Same (KJJ62), Bowling Green, Kentucky. Correct entry to read: 4679-CF-P-75 C.P. to delete 5945.2H Only toward Smiths Grove, Kentucky. (Rest remains the same as reported on public notice dated August 11, 1975, page 8)

[FR Doc.75-27162 Filed 10-8-75;8:45 am]

[FCC 75-10661; Docket No. 20598, File No. 20-DSE-P-74; File No. DS-AA-I; File No. I-P-D-5]

ALL AMERICA CABLES AND RADIO, INC., AND COMMUNICATIONS SATELLITE CORP.

Designating Applications for Consolidated Hearing on Stated Issues

In the matter of All America Cables and Radio, Inc. for authority to construct a domestic Fixed Public Satellite Earth Station at Cayey, Puerto Rico; For authority to acquire, install and operate channelizing equipment at the Cayey, Puerto Rico earth station; Communications Satellite Corporation for authority to discontinue service via the Cayey, Puerto Rico earth station and to transfer ownership to All America Cables & Radio, Inc.

1. The Commission is herein considering several related applications concerning the proposed transfer of ownership interest in the Cayey, Puerto Rico earth station and its proposed use in the provision of domestic satellite services between the United States Mainland and Puerto Rico. The first of these applications (File No. 20-DSE-P-74) was filed by All America Cables & Radio, Inc. (AAC&R) [1] on April 19, 1974. In that application AAC&R indicates that it has executed a letter agreement with the Communications Satellite Corporation (COMSAT) pursuant to which, and subject to FCC approval, AAC&R will acquire COMSAT's 50% ownership interest in the Cayey earth station which is presently being used for INTELSAT services. Upon grant of the construction permit sought by that application, AAC&R would commence modification of the existing Cayey station to enable it to operate within the domestic satellite system with an American Telephone and Telegraph Company (AT&T) earth station at Hawley, Pennsylvania. AAC&R anticipates that it could commence operating via the Cayey earth station within 10 months after a grant of the subject construction permit. It is intended that the existing operations via the INTELSAT system will continue without interruption until the station commences to operate via a domestic satellite system.

2. Ultimately, the Cayey earth station will operate via an AT&T "DOMSTAT" communications satellite expected to be available early in 1976.[2] AAC&R states that it will make available to the international record carriers (IRC's) on an indefeasible right-of-user (IRU) basis, sufficient capacity in the Cayey earth station to accommodate their reasonably anticipated needs for voice-grade circuits for normal requirements. AT&T has informed AAC&R that it will make available to the record carriers capacity in its Hawley earth station on a basis comparable to a normal IRU arrangement.[3]

3. AAC&R further states that it is willing to pass on to its customers the cost savings resulting from the use of a domestic satellite system. It intends to submit new rate proposals within six months after all authorizations necessary to implement United States-Puerto Rico service are issued. With regard to non-Mainland-Puerto Rico service presently being furnished via Cayey, AAC&R states that, insofar as it is aware, the existing earth station has normally operated via the Intelsat system with only Spain and the United States Mainland, and AAC&R is the only carrier to have operated satellite circuitry from Puerto Rico to any place other than the United States Mainland. AAC&R contemplates that the discontinued circuitry would be reestablished via cable between Spain and the United States and extended outward to Puerto Rico via either cable or domestic satellite.

4. The second of AAC&R's related applications was filed on June 17, 1974 (File No. DS-AA-1). It requests authority to:

(a) Acquire, install and operate channelizing equipment at Cayey for the derivation of channels of communications;

(b) acquire domestic communications satellite transponders and operate such jointly with AT&T; and

(c) use the aforementioned facilities to provide its regularly authorized services between the United States Mainland and Puerto Rico/Virgin Islands.

AAC&R will acquire the existing channelizing and ancillary equipment, the net book value of which was $225,000 as of March 31, 1974. The installed cost for the five super groups to be added in 1975 will approximate $70,000. With respect to the DOMSAT transponders, one would be operated on a full-time basis for normal services and the second would be operated as required to accommodate television services and for restoral purposes.[4]

5. The third of these related applications was filed by COMSAT on May 3, 1974 (File No. I-P-D-5). It requests authority to transfer COMSAT's 50% ownership of Cayey to AAC&R and to discontinue the provision of service to Cayey by COMSAT.[5] In accordance with the Earth Station Ownership Agreement (Agreement) executed on March 23, 1967, 50% of the ownership of the Cayey earth station was vested in COMSAT with the remaining ownership divided in the following percentages which were based on anticipated usage:

Carrier:	*Share (percent)*
All America Cables & Radio, Inc. (AAC&R)	30.0
ITT World Communications Inc. (ITTWC)	11.5
RCA Global Communications, Inc. (RCAGC)	4.0
Western Union International, Inc. (WUI)	4.5

6. COMSAT states that following the Commission's *Second Report and Order* in the domestic satellite proceedings (Docket No. 16495)[6] calling for integration of offshore points into the domestic satellite system(s), AAC&R, the major user of satellite circuits to Puerto Rico, expressed the desire to own and operate its own earth station in Puerto Rico for use with a domestic system. Accordingly, COMSAT and AAC&R have entered into a letter agreement, the salient features of which are as follows:

(a) COMSAT will sell all its interest in the Cayey earth station to AAC&R for a price equal to the net book value of such interest at the closing date;

(b) closing will take place on the date traffic from Puerto Rico is to be integrated into the domestic communications system, anticipated to occur on or about January 1, 1976;

(c) AAC&R will be allowed, prior to closing, to commence such construction

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[1] AAC&R is a subsidiary of the International Telephone and Telegraph Corporation (ITT).

[2] AT&T has filed an application for necessary authority to operate its domestic satellite between the Mainland and Puerto Rico. (See Application File No. I-P-C-8211).

[3] At both earth stations, capacity will be made available on a rental basis, as required for television service, or for additional periodic voice-grade circuit requirements for restoral purposes.

[4] AAC&R states, that if interim operation via a Western Union Telegraph Company satellite is necessary and technically and economically feasible, AAC&R and AT&T would seek authority to acquire and operate transponders from WUT pursuant to tariff.

[5] COMSAT also requests authority to modify the Cayey earth station license so as to delete Comsat as a joint owner and to modify the Andover and Etam earth station licenses to delete Cayey as an authorized point of communications. These requests are improperly included in the instant application and will not be addressed herein.

[6] 35 FCC 2d 844, hereinafter *Second Report and Order*.

as may be necessary to adopt the property for use in connection with a DOMSAT system;

(d) AAC&R will give COMSAT an option to buy, at net book value, a tract of five contiguous acres on the property which may be used only as the site for an earth station facility to handle international traffic; and

(e) AAC&R and COMSAT will endeavor to secure the appropriate concurrence of the other joint owners of Cayey to effectuate the provisions of the agreement.

7. With regard to (e) above, COMSAT states that it informed the other joint owners of the proposed transfer to AAC&R. The minority owners raised the issue of dividing proportionately COMSAT's interest among the remaining owners instead of COMSAT transferring its interest *in toto* to AAC&R. Since AAC&R was not willing to alter the terms of the agreement, COMSAT proceeded to file the instant application pursuant to the terms of that agreement.

PLEADINGS

8. In view of our decision herein, pleadings relating to the issue of the terms of appropriate access by the international record carriers to the domestic satellite facilities used to provide service to Puerto Rico will not be summarized.

9. On August 20, 1974, a Petition to Dismiss or Deny was filed by the Puerto Rico Telephone Authority (the Authority), sole owner of the Puerto Rico Telephone Company (PRTC).[7] In this Petition, the Authority states that it has considerable interest in this matter since it is the new owner of the PRTC and, as such, is interested in all aspects of the communications systems serving the Commonwealth of Puerto Rico.[8] The Authority maintains that in November of 1973 representatives of the Commonwealth and representatives of COMSAT met to discuss the future of the Cayey earth station. The Puerto Rico representatives indicated concern over acquisition of Cayey by AAC&R and indicated a willingness to consider purchasing it. Now that the Authority has become the owner of the PRTC, and is responsible for developing telephone service on the island, it has considered the instant applications and concluded that a favorable ruling on them would be contrary to law and policy.

10. First, the Authority maintains that a grant of the applications would be contrary to the express ruling of the Commission in the *Second Report and Order*. In conjunction with its determination that service and rates to off-shore points should be integrated into the domestic structure, the Commission stated that the AT&T should provide message telephone service, "in conjunction with the appropriate local carrier (e.g., Hawaiian Telephone Company, RCA Alascom)."[9] The Authority maintains that PRTC is the local carrier in Puerto Rico, providing over 90% of the telephone service on the island,[10] and that AAC&R is an international carrier.

Second, the Authority submits that the determination that service to Puerto Rico should be provided by AT&T in connection with the appropriate local carrier is correct. To permit any other interconnection would result in the imposition of an unnecessary Middleman in the provision of communications services resulting in inefficiency and greater cost to the user.[11] The Authority characterizes AAC&R as a middleman carrier. Telephone messages would be carried over the lines of PRTC, delivered to AAC&R who would then redeliver to AT&T. PRTC is willing and able to interconnect directly with AT&T through the satellite and AAC&R has offered no reason why its proposal is preferable.

11. The Authority's third point is that AACR is attempting to achieve a monopoly position in Puerto Rico, through action by the Commission, which it was unable to achieve in negotiation with the Commonwealth. AACR sought an exclusive traffic agreement, but the Commonwealth refused to agree because it believed that it was necessary to develop competition in service to Puerto Rico if full service and proper rates were to be achieved. AACR is now seeking a virtual monopoly of the telephone traffic in and out of Puerto Rico. The Commission's basic policy with respect to satellites is geared to encourage competition, the establishment of a new monopoly is totally inconsistent with this policy. The applications offer no justification for the favored position AACR seeks, nor do they offer explanation as to why it should not be required to continue to share ownership of the earth station. A further point made by the Authority is that the applications of AACR and Comsat are premature in that the owners of the Cayey station have not agreed to the sale. Finally, the Authority maintains that the public interest will be better served by the Authority's interconnecting with AT&T at the satellite. AAC&R previous owner of the PRTC, has not been responsive, in the past, to the needs and demands for quality telephone service in Puerto Rico, claiming that it was unable to secure necessary rate increases. The Authority, on the other hand, being a government entity offers certain advantages. The Authority is free of tax and profit obligations and is able to raise debt funds through tax-free bonds at lower interest rates. The Authority points out the difference between the economic situation on the Mainland and in Puerto Rico and insists that without a high-quality, low cost communications system, enterprises are restrained from flourishing.

12. AAC&R filed an Opposition to the Authority's Petition on September 5, 1974. AAC&R states that, although its applications look toward increased ownership in the station and the assumption of management responsibility therefore, no expansion of AAC&R's role in furnishing overseas communications is involved since AAC&R is already responsible for all such services. The Authority is using the pendency of these applications to make a controversial proposal, i.e., local government ownership of interstate and foreign communications facilities. This proposal demonstrates a lack of understanding on the part of the Authority because it fails to show legal, financial and technical qualifications, an operating agreement with AT&T; it ignores experienced conclusions that integrated operation of diverse facilities is required for high-quality, overseas telephone services; and it attempts to inject local government control into an area of concern to the U.S. as a whole.

13. AAC&R states that the transfer of control of the PRTC did not involve any overseas facilities or services, which have been provided by AAC&R or its affiliates, in conjunction with AT&T since 1936. On many past occasions, AAC&R has evidenced its interest in acquiring control of the Cayey station.[12] Now that AAC&R has the tacit approval of the other owners of the Cayey station to assume control of that station for use in a domestic satellite system, the Authority is raising questions concerning the structure of the telephone industry. The Authority apparently desires to acquire all the communications facilities in Puerto Rico, stating that local government control will result in improved efficiency and lower rates, despite the fact that less than one month after its acquisition of PRTC, the Authority proposed a rate increase of 32%.

14. Addressing the specific points raised by the Authority, AAC&R states that the FCC did not assign domestic earth station ownership or operations to PRTC or to the Authority. The Commission did not define "local" as it was used in the *Second Report and Order*, but if the Commission had intended to restructure the telephone industry in

[7] The Authority requested an extension of time in which to file this pleading, citing the press of matters relating to its purchase of the PRTC as its reason. The Commission did not grant a general extension of time, however it did state that it would consider any view on this matter submitted by the Authority reasonably prior to Commission action. We shall herein consider it as a timely-filed Petition.

[8] By a Memorandum Opinion and Order, Released July 19, 1974, the Commission authorized the transfer of control of the PRTC, Puerto Rico's internal telephone company, from AAC&R to the Authority, which was created by the Puerto Rican legislature for this purpose.

[9] 35 FCC 2d 844, 858.

[10] The remaining service is provided by the Puerto Rico Communications Authority (PRCA) which, pursuant to the law creating the Authority, will be merged eventually with the Authority.

[11] The Authority cites the Commission decision in *Application of All America Cables and Radio, Inc.*, et. al., 15 FCC 2d 1 (1968) in which the Commission held that strong countervailing reasons would have to be present before a communications facility should be owned by a middleman carrier.

[12] Here AAC&R cites its comments in Docket No. 15735 and 18875.

Puerto Rico, it would have addressed that issue. The Commission's use of the Hawaiian Telephone Company and RCA Alascom as "local" carriers demonstrate its intention that domestic services to these points would be continued by the existing overseas carriers. AAC&R further states that it will not be a "middleman carrier" since AAC&R's services have and will be furnished directly to the public. The mere fact that AAC&R provides lines which connect PRTC with telephone companies on the Mainland does not make it a "middleman".

15. With regard to the Authority's "monopoly" argument AAC&R sees an attempt to secure a monopoly on all overseas services by the Authority. Actually, AAC&R's acquisition of Comsat's ownership share would be in full accord with the Commission's policy that investment participation should be reasonably related to use. AAC&R contends that the advantages of integrated services utilizing diverse (cable and satellite) facilities should not be discarded lightly. Planning and coordination of traffic allocations, circuit requirements, restoration of interrupted services, etc. would be needlessly complicated and less effective if another overseas telephone message carrier is introduced between Puerto Rico and the Mainland. Further, the Authority has not shown that its proposal has the concurrance of AT&T, which has a long-term operating agreement with AAC&R. AAC&R further states that, contrary to the position of the Authority, the Commission, while supporting a policy of competition, must still examine the pertinent facts and make specific findings that such competition would be in the public interest. In light of all the problems resulting from the participation by the Authority in overseas communications, there is no good or sufficient reason for the Commission to consider the inefficient arrangements suggested by the Authority.

16. AAC&R also states that local government operation of overseas communications would be contrary to U.S. policy and practice. The Puerto Rico legislature, in creating the Authority, did not intend that it acquire overseas facilities and certain provisions of the Puerto Rico Telephone Authority Act are incompatible with the administration and regulation of overseas services. Further, the Commission is being asked to act without the necessary information on the economic and technical qualifications of the Authority. In view of the unprecedented changes in communications policies and practices sought by the Authority, much more evidence is required. Finally, with regard to the Authority's argument that the applications are premature, Section 2.2 of the Earth Station Ownership Agreement does not give ESOC [12] authority to vote on the proposed transfer. AAC&R's applications are not an attempt to secure leverage in achieving agreement among the earth station owners, but are timely and appropriate applications for authority which only the FCC can issue."

17. In its Reply, filed on September 20, the Authority restates its position, that a greater cost saving will result from the use of the Cayey earth station in a domestic satellite system if the PRTC, and not AAC&R, acquires and operates the station. The principal issue then becomes whether operation by AACR would be more costly than operation by PRTC. Regarding AAC&R's statement that the Authority has sought a 32% rate increase, the Authority answers that it was acknowledged prior to the sale of the PRTC that a rate increase of 50–60 percent would be necessary if AAC&R had retained control. With its more modest rate increase, the Authority has been able to launch a $634 million capital improvement program. The Authority can accomplish what AAC&R cannot because it can issue tax-free bonds and it is not compelled to turn a profit for the benefit of investors. In addition, the Authority is not advocating a new industry arrangement, as AAC&R suggests, but rather the natural consequences of the AAC&R sale of PRTC.

18. The Authority further disputes AAC&R's claim that it is a "local" carrier within the context of the *Second Report and Order*. AAC&R has no local operations whatever since the sale of the PRTC. On the other hand, there is one carrier which provides all local, intrastate service to substantially all customers in Puerto Rico, i.e. PRTC. AAC&R's insistence that it will provide service directly to the public flies in the face of obvious facts. AAC&R receives telephone traffic from PRTC and AT&T. PRTC bills its customers, AT&T bills its customers and AAC&R receives its revenues from the carriers on either end of its system. The Authority also challenges AAC&R's argument that its ownership and operation of Cayey is in the public interest because unified operation of cable and satellite facilities is superior in terms of cost and efficiency. The Authority does not agree that divided ownership would result in cost increases or operational problems. Administration of traffic between separate facilities, already accomplished pursuant to the Commission's formula in the Memorandum Opinion of April 26, 1967 [13] would be no more difficult than it has been in the past. AAC&R states that the Authority's position in this matter would delay the advent of domestic satellite service to Puerto Rico and consequent rate reductions, but the Authority argues that delay is not inevitable because the Commission can fashion some form of interim relief and suggests an expedited hearing.

19. The Authority also argues that PRTC ownership of the Cayey earth station would not be contrary to policy. For the Commission to accept the Authority's position, it is not necessary to find that private ownership of interstate common carrier facilities is no longer in the public interest. The unique needs of Puerto Rico, not common to the states, motivate the Authority's desire to acquire and operate Cayey. Finally, with regard to AAC&R's assertion that the Authority and PRTC have not established their legal, technical and economic qualifications to own the Cayey station, the Authority states that its filings in support of the transfer of control are sufficient and that Sections 2 and 5 of the Act establishing the Authority authorize it, or its subsidiary, PRTC, to acquire a facility such as Cayey.

Discussion

20. At the outset, it should be noted that our principal concern in this matter is to assure that the citizens of Puerto Rico are provided with the advantages of efficient and economical domestic satellite service. This concern was evident in our *Second Report and Order* in which we determined that message telephone service to Puerto Rico, and the other off-shore points, should be provided by AT&T "in conjunction with the appropriate local carrier". This determination was founded on our belief that the telephone carrier that provided message telephone service within the off-shore jurisdiction, would be the one most likely to be able to bring to its citizens efficient and economical service using a domestic satellite system. It appeared to us that the introduction of a third carrier, one who might provide a form of interconnection between AT&T and the local carrier, would be, in most circumstances, unnecessary, and, in the long view, inefficient and uneconomical.

21. At the time we made this policy determination, local telephone service within the Commonwealth of Puerto Rico was provided by AAC&R. At present, however, local telephone service within most of the Commonwealth is provided by PRTC. AAC&R does provide overseas service, pursuant to a traffic agreement with the Authority, but PRTC bills its customers directly and AAC&R receives its revenues from the carriers at either end of the system (PRTC and AT&T). This arrangement, based on AAC&R's historic ownership of the overseas facilities (both satellite and cable), appears to be inconsistent with our policy, enunciated in the Commission's *Decision* adopted October 29, 1968, in Docket No. 18072,[14] and in our *Second Report and Order* on *Ownership and Operation of Earth Stations*, in which we said:

> We find that the most logical and equitable formula is one under which ownership is reasonably related to use. Any major departure from this principle would, in essence, mean that a carrier ready, willing and able to pay for facilities which it actually requires to handle traffic would be required to lease

[12] Earth Station Ownership Committee.

[13] AAC&R also states that Comsat's desire to remain "flexible" really refers to its intention to assume a neutral position with respect to the form of investment participation (e.g., ownership, IRU, etc.) by the IRC's.

[13] See 7 FCC 2d. 959.

[14] 15 FCC 2d 1

them from a second carrier. The sole function of this second carrier would be that of investor in facilities on which such second carrier would realize a return at the expense of the first carrier user.[1]

22. Our "appropriate local carrier" policy was based upon our previous determination that ownership should be reasonably related to use. It still appears that the best, most efficient, and economical domestic satellite service would be provided by AT&T and a local carrier, without the unnecessary introduction of a third carrier whose function would be to own the facility through which AT&T and the local carrier would be interconnected. For that reason, we do not believe that the public interest would be served by a grant of the subject applications. Therefore, pursuant to Section 309(e) of the Communications Act, we shall herein designate these applications for hearing.

23. Accordingly, in view of the foregoing, *it is hereby ordered*, pursuant to Section 4(i), 201, 214, 309, and 403 of the Communications Act, that

A. The above captioned applications are designated for hearing at the offices of the Commission in Washington, D.C., for the purpose of determining:

(1) Whether AAC&R is the appropriate local carrier to provide message telephone service between the United States mainland and Puerto Rico;

(2) If AAC&R is not found to be the appropriate local carrier, whether the public interest requires a waiver of the Commission's policy determination that message telephone service should be provided by the appropriate local carrier;

24. *It is further ordered*, That the Administrative Law Judge appointed to preside at the hearing shall issue an Initial Decision at the close of the record.

25. *It is further ordered*, That All American Cables and Radio, Inc. and the Puerto Rican Telephone Authority are made parties in this proceeding and that all other persons wishing to participate may do so by filing a notice of intent to participate within 10 days of the publication of this Order in the FEDERAL REGISTER.

26. *It is further ordered*, That the Administrative Law Judge designated to preside at the hearing shall convene a pre-hearing conference to determine appropriate procedures for the expeditious prosecution of this investigation. Provisions for other proceedings shall be by further order of the Administrative Law Judge.

27. *It is further ordered*, That a separated trial staff shall participate in this proceeding pursuant to § 1.1209(d) of the Commission's Rules.

Adopted: September 17, 1975.

Released: October 3, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-27161 Filed 10-8-75;8:45 am]

[1] 5 FCC 2d 812, 818-819

COMMON CARRIER RADIO RELAY ADVISORY COMMITTEE

Meeting

OCTOBER 1, 1975.

The next meeting of the Common Carrier Radio Relay Advisory Committee, organized to prepare for the 1979 World Administrative Radio Conference, will be held on October 21, 1975 in Washington, D.C. The meeting will be held in Room 752, Federal Communications Commission, 1919 M Street, N. W. at 9:00 A.M. The purpose of the meeting is to review the progress of the five fact finding task forces, discuss problems and approaches, and establish a schedule for completion of the various tasks.

All participants in the task forces are urged to attend.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-27163 Filed 10-8-75;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 75-37]

INTERNATIONAL FREIGHT SERVICES, LTD.

Order of Hearing on Petition for License as an Independent Ocean Freight Forwarder

On February 19, 1975, pursuant to Section 44, Shipping Act, 1916 (46 U.S.C. 841b), International Freight Services, Ltd., Inc. (IFS) 6519 Eastland Road, Cleveland, Ohio, filed an application for a license as an independent ocean freight forwarder. This is the third application for a license to be filed by IFS.

The Commission's investigation of IFS's first application, filed November 30, 1973, revealed apparently that:

(1) The experience of one of the employees, who were to be made the qualifying officer of the corporation pursuant to § 510.5(a)(2)(iii) of the Commission's General Order 4 (46 CFR 510.5 (a)(2)(iii)) was falsely enlarged so that it would appear that the employee was fully qualified to perform ocean freight forwarding services. This employee was also allegedly induced by the applicant's then President, Mr. Rafael Swift, to make false and misleading statements to the Federal Maritime Commission investigator;

(2) A second person was also allegedly induced by Mr. Swift to make false and misleading statements to the Federal Maritime Commission investigator;

(3) Mr. Swift stated he was a citizen of the United States, when he apparently is a citizen of Mexico.

When confronted by discrepancies in this first application, Mr. Rafael Swift, who was named as the President and sole stockholder of the applicant, withdrew the application and filed a second modified application which was received by the Commission on March 18, 1974.

The Commission, on August 1, 1974, advised the applicant of its intention to deny the second application. By letter of August 9, 1974, Mr. Swift requested the opportunity to show at a hearing that the intended denial was not warranted. By Order of Hearing On Petition For License As An Independent Ocean Freight Forwarder the Commission instituted Docket No. 74-54 to determine if IFS was fit and able to be licensed as an independent ocean freight forwarder.

Subsequently, IFS filed the present third application which contained new information in regard to the applicant. Docket No. 74-54 was then dismissed at the request of Hearing Counsel, without objection by the applicant, to allow for an investigation of the changed circumstances surrounding the third application.

Mr. Ismail K. Renno is listed on the third application as the President and majority stockholder of the applicant corporation. Mr. Swift, who was listed as the President and sole stockholder in the first and second applications, is now named as an Executive Vice President and a minority stockholder of the applicant, and Mr. Dennis M. Costin is also named as an Executive Vice President and a minority stockholder.

The investigation in regard to the present application revealed apparently that:

(1) Mr. Renno was always, in fact, the majority stockholder of the applicant corporation;

(2) During the course of the investigation of the instant application, Mr. Swift stated that the capitalization of the applicant corporation came exclusively from his own personal savings and proceeds of loans he had received from a bank. The latest investigation revealed that Mr. Renno also contributed substantial monies for the capitalization of the corporation.

(3) Mr. Swift also stated, with respect to an application for an International Air Transport Association cargo agency, that he was the sole stockholder of IFS, when, in fact, he was not;

(4) Mr. Swift's conduct, with respect to a previous employer, gave rise to a lawsuit. The Court of Common Pleas, County of Cuyahoga, Ohio, entered final judgment of $1,000 and issued a restraining order prohibiting Mr. Swift and the applicant corporation from soliciting employees and accounts from that previous employer;

(5) Mr. Renno, President and majority stockholder of the applicant corporation, appears to have been a party to the deceptions and falsehoods of Mr. Swift, as they relate to the ownership of the applicant corporation.

Mr. Renno, President of IFS, appears to have had experience with air transportation, rather than the duties of an ocean freight forwarder. His experience with respect to the preparation of ocean freight documentation appears, therefore, to be marginal. However, Mr. Renno will not be present to supervise the day-to-day activities of the applicant corporation, but rather will be assigned to operate the applicant's London office. Mr. Swift's and Mr. Costin's experience likewise has been limited to air transportation and also appears to be insufficient in

regard to the duties performed by an independent ocean freight forwarder. Section 510.5(a)(2)(iii) of General Order 4 states:

> In the case of an applicant which is a corporation or association, at least one of the active corporate or associate officers must qualify.

Consequently, it would appear that none of the above active officers of the applicant meet the necessary qualifications required for the approval of IFS's application as an independent ocean freight forwarder.

The conduct of IFS's principal officers and stockholders, Mr. Renno and Mr. Swift, appears to demonstrate disregard of the Commission's rules and regulations issued pursuant to Section 44 of the Shipping Act, 1916, by lacking the fitness and ability necessary to be licensed independent ocean freight forwarder. The applicant, International Freight Services, Ltd., Inc., as a result, appears to lack the fitness and ability to be licensed as an independent ocean freight forwarder.

Pursuant to § 510.8 of the Commission's General Order 4 (46 CFR 510.8) the Commission, on July 18, 1975, advised the applicant of its intent to deny the application for the reasons set out hereinabove. In accordance with General Order 4, an applicant may, within 20 days of receipt of such advice, request a hearing on the application.

By letter dated July 31, 1975, International Freight Services, Ltd., Inc., through counsel, requested the opportunity to show at a hearing that denial of International Freight Services, Ltd., Inc.'s application is unwarranted.

Now, therefore, it is ordered, That pursuant to Section 44 of the Shipping Act, 1916, Section 510.8 of the Commission's General Order 4 (46 CFR 510.8), a hearing is hereby ordered to afford International Freight Services, Ltd., Inc. the opportunity to demonstrate that the foregoing information and/or reasons do not warrant finding that the applicant is not fit and able properly to carry on the business of forwarding and to conform to the provisions of the Shipping Act, 1916, and the requirements, rules and regulations of the Commission issued thereunder.

It is further ordered, That International Freight Services, Ltd., Inc. be hereby made a petitioner in this proceeding pursuant to Rule 3(a) of the Commission's rules of Practice and Procedure (46 CFR 502.41).

It is further ordered, That this proceeding be assigned for public hearing and an initial decision before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the presiding Administrative Law Judge on or before April 1, 1976.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon petitioner.

It is further ordered, That any persons other than petitioner who desire to become a party to this proceeding and to participate therein, shall file a petition to intervene in accordance with Rule 5 (1) of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

It is further order, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.75-27220 Filed 10-8-75;8:45 am]

FEDERAL RESERVE SYSTEM

CITIZENS BAN-CORP.

Formation of Bank Holding Company

Citizens Ban-Corporation, Kansas City, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The Citizens Bank of Atchison County, Rock Port, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 5, 1975.

Board of Governors of the Federal Reserve System, October 2, 1975.

[SEAL] GRIFFITH L. GARWOOD, *Assistant Secretary of the Board.*

[FR Doc.75-27097 Filed 10-8-75;8:45 am]

EMPIRE BANCORP INC.

Formation of Bank Holding Company

Empire Bancorp Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of Empire State Bank, Kansas City, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 28, 1975.

Board of Governors of the Federal Reserve System, October 1, 1975.

[SEAL] GRIFFITH L. GARWOOD, *Assistant Secretary of the Board.*

[FR Doc.75-27098 Filed 10-8-75;8:45 am]

REPUBLIC OF TEXAS CORP.

Proposed Retention of Republic National Mortgage Corporation of Texas

Republic of Texas Corporation, Dallas, Texas, has applied, pursuant to § four (c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4 (b)(2) of the Board's Regulation Y, for permission to retain indirect ownership, through its trusteed affiliate, Republic Enterprises Corporation, of the voting shares of Republic National Mortgage Corporation of Texas, both of Dallas, Texas. Notice of the application was published on September 12, 1975 in the Dallas Times Herald, a newspaper circulated in Dallas, Texas.

Applicant states that Republic National Mortgage Corporation of Texas engages in the activities of mortgage lending and mortgage loan servicing. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 3, 1975.

Board of Governors of the Federal Reserve System, October 1, 1975.

[SEAL] GRIFFITH L. GARWOOD, *Assistant Secretary of the Board.*

[FR Doc.75-27099 Filed 10-8-75;8:45 am]

SECURITY BANCSHARES OF MONTANA, INC.

Acquisition of Banks

Security BancShares of Montana, Inc., Billings, Montana, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of Big Horn County State Bank, Hardin, Montana and of Security Bank of Colstrip, Colstrip, Montana. The factors that are considered in acting on

the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 28, 1975.

Board of Governors of the Federal Reserve System, October 1, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-27100 Filed 10-8-75;8:45 am]

HENDERSON STATE CO.

Formation of Bank Holding Co.

Henderson State Company, Henderson, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 95 per cent of the voting shares of Henderson State Bank, Henderson, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Henderson State Company, Henderson, Nebraska has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Thieszen Insurance Agency, Henderson, Nebraska. Notice of the application was published on August 28, 1975 in The Henderson News, a newspaper circulated in Henderson, Nebraska.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency, such activities to be conducted in a community with a population of less than 5,000 persons. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 4, 1975.

Board of Governors of the Federal Reserve System, October 1, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-27204 Filed 10-8-75;8:45 am]

NEW MEXICO BANCORPORATION, INC.

Acquisition of Bank

New Mexico Bancorporation, Inc., Santa Fe, New Mexico, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Fidelity National Bank, Albuquerque, New Mexico. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 31, 1975.

Board of Governors of the Federal Reserve System, October 6, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-27205 Filed 10-8-75;8:45 am]

THIRD NATIONAL CORP.

Order Denying Application for Acquisition of Bank

Third National Corporation, Nashville, Tennessee, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 50 per cent or more of the voting shares of Bank of Huntingdon, Huntingdon, Tennessee ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the third largest banking organization in Tennessee, controls eight banks with aggregate deposits of approximately $1.1 billion, representing approximately 8.8 per cent of the total deposits in commercial banks in the State.[1] Acquisition of Bank would increase Applicant's share of State deposits only slightly and would not alter Applicant's ranking among the other banking organizations in the State. Accordingly, consummation of the proposal would not significantly increase the concentration of banking resources in Tennessee.

Bank holds deposits of approximately $32 million representing approximately 49 per cent of the total deposits in commercial banks in the relevant banking market and is the largest of six commercial banks operating therein.[2] Applicant's banking subsidiary closest to Bank is located 52 miles away in Savannah. It appears that no meaningful competition presently exists between any of Applicant's subsidiary banks and Bank, nor is any competition likely to develop in view of the distances involved. The relevant market is a sparsely populated, rural area, the *per capita* income of which is substantially below the *per capita* income of the State of Tennessee; the market's population and deposit ratios per banking office are also substantially below the State average. The market does not appear attractive for *de novo* entry and accordingly, but for this application, Applicant is not deemed a likely entrant into the market. The Board concludes that consummation of the proposed transaction would not have any significant adverse effects on existing or potential competition in any relevant area and that the competitive considerations are consistent with approval of the application.

The Board has repeatedly indicated that a holding company should provide a source of strength for its subsidiary banks and that the Board examines closely the condition of an applicant in each case with this in mind. With respect to the present proposal, Bank would be acquired through a cash purchase of Bank's stock. Principal and interest payments on the debt incurred by consummation of this proposal would represent a significant cash drain on Applicant and an increase in its already leveraged position. Projected earnings of Applicant, in the Board's view, do not provide Applicant with the necessary financial flexibility to meet this proposed substantial increase in its annual debt servicing requirements as well as any unexpected problems that may arise at any of its subsidiary banks. In addition, Applicant, through its mortgage lending subsidiary, is currently experiencing financial pressures. The Board feels that Applicant should concentrate its financial and managerial resources to strengthen its present subsidiaries before seeking further expansion. Accordingly, on the basis of the record, the Board concludes that the considerations relating to the financial and managerial resources and future

[1] All banking data are as of December 31, 1974, and reflect holding company formations and acquisitions approved through July 31, 1975.

[2] The relevant banking market is approximated by Carroll County.

prospects of Applicant weigh against approval of the application.

Applicant has proposed to provide Bank with accounting and data processing services and to assist in meeting present and future management requirements. The Board does not consider these convenience and needs considerations sufficient to outweigh adverse financial considerations. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

During the course of processing the instant application, it came to the Board's attention that officials of Applicant and of its major subsidiary bank had indirect ownership interests in Bank, that because Applicant intended to pay a significant premium on shares of Bank, these individuals stood to gain a substantial profit as a result of Applicant's proposed acquisition of shares of Bank, and that these facts had not been previously disclosed to the public. Accordingly, the Board referred the matter to the Securities and Exchange Commission for consideration whether Applicant, or any of the individuals involved, had violated the Securities Act of 1933 or the Securities Exchange Act of 1934. The Board deferred determination of the instant application pending such consideration by the Commission. Without admitting or denying any of the Commission's findings, Applicant subsequently consented to the entry of an order by the Commission requiring certain public disclosures relating to the matter referred by the Board. Because the Board is denying this application on financial grounds it has not made independent findings of fact on the matters referred to the Commission, nor has it taken those matters into account in any way in reaching its decision in this case.[3] However, without intending to reflect in any way on the substance of the matters considered by the Commission in this case, the Board believes it would be appropriate to make clear for the future its position with respect to the involvement of bank holding company "insiders" in acquisitions by their companies.

Arrangements in which bank holding company directors, officers or employees, or their close relatives, have a personal financial interest in an acquisition proposed by the holding company will be closely scrutinized by the Board to ensure both that they do not involve an effort by the company to circumvent the requirement that prior approval of the Board be obtained for such an acquisition, and that they do not present the threat of any adverse effects upon the financial strength and soundness of the holding company or any of its subsidiaries. Further, to the extent a subsidiary bank of a holding company advances funds to such persons, or to third parties, for the purpose of purchasing or holding stock where the ultimate purpose is to enable its parent to become the owner of the stock, an inappropriate use of bank funds may occur. The impropriety of such transactions may have more serious effects where the loans are at preferential rates, or where the ultimate purchase by the holding company involves the payment of substantial premiums to the insiders. Such arrangements do not comport with sound banking practice and are inconsistent with the need to sustain public confidence in the integrity of the banking system.

The Board expects holding companies and their subsidiaries to avoid the conflicts of interest inherent in such self-dealing arrangements, and, in its consideration of applications before it, depending on the facts, it may deem the existence of such arrangements to reflect adversely upon the managerial resources of an applicant.

By order of the Board of Governors,[4] effective October 3, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-27206 Filed 10-8-75;8:45 am]

[3] The Board recognizes that Applicant's consent to the entry of the Commission's order did not constitute an admission of the relevant facts, and that were such matters to be litigated Applicant might put forward defenses and mitigating circumstances.

[4] Voting for this action: Vice Chairman Mitchell and Governors Bucher, Wallich, Coldwell and Jackson. Absent and not voting: Chairman Burns and Governor Holland.

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR SOCIOLOGY

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

1. Name: Advisory Panel for Sociology.
2. Date: October 30 and 31, 1975.
3. Time: 9 a.m.-6 p.m. each day.
4. Place: Rm. 621, National Science Foundation, 1800 G Street, NW., Washington, D.C.
5. Type of meeting: Closed.
6. Contact person: Dr. Garry W. Wallace, Assistant Program Director for Sociology, Rm. 206, National Science Foundation, Washington, D.C. 20550, telephone 202/632-4204.
7. Purpose of advisory panel: To provide advice and recommendations concerning support for research in sociology.
8. Agenda: To review and evaluate individual research proposals.
9. Reason for closing: The proposals being reviewed contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.
10. Authority to close meeting: These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6). The closing of this meeting is in accordance with the determination by the Director of the National Science Foundation, dated February 21, 1975, pursuant to the provisions of Section 10(d) of Public Law 92-463.

M. R. WINKLER,
Acting Committee Management Officer.

OCTOBER 6, 1975.

[FR Doc.75-27106 Filed 10-8-75;8:45 am]

ADVISORY COMMITTEE ON ENERGY FACILITY SITING

Notice of Open Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee on Energy Facility Siting.

Date: October 24, 1975.

Time: 9:15 a.m. to 5:00 p.m.

Place: Main Conference Center, MITRE Corporation, Westgate Research Park, McLean, Virginia.

Type of meeting: Open.

Contact person: Dr. Hans L. Hamester, Energy Policy Analyst, Office of Energy R&D Policy, Rm. 537, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7804.

Summary minutes: Committee Management Coordination Staff, Management Analysis Office, Rm. 248, National Science Foundation, Washington, D.C. 20550.

Purpose of advisory committee: To provide recommendations concerning the plans, status, and results of NSF sponsored studies relating to the siting of energy facilities.

Agenda: Will include:

9:15—Description of Federally Sponsored R&D Programs Related to Generic Questions on the Siting of Energy Facilities.

11:15—Discussion.

11:45—Description of NSF Sponsored Study at MIT: "Reaching Power Plant Siting Decision with Environmental and Social Consequences."

12:30—Recess.

2:00—Description of State-sponsored R&D Programs Related to generic questions on the Siting of Energy Facilities.

3:00—Concurrent Discussion in Subcommittee: (1) Legal and Institutional, (2) Environmental, (3) Technological, (4) Economic.

4:15—Reports of Subcommittee Chairman and discussion.

M. R. WINKLER,
Acting Committee Management Officer.

OCTOBER 7, 1975.

[FR Doc.75-27284 Filed 10-8-75;8:45 am]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 75-27]

MARINE CASUALTY REPORT; SAFETY RECOMMENDATION RESPONSES

Notice of Availability and Receipt

The National Transportation Safety Board announces the release September 29, 1975, of its report of the foundering

of the motorboard COMET off Point Judith, Rhode Island, 19 May 1973. The Safety Board determined that the sinking probably was caused by major, undetected flooding by water leaking through deteriorated hull planking. The Board also found that the loss of life following the sinking was caused by the absence of a radio distress call, the absence of signal devices for use by persons in the water, and the lack of adequate equipment to protect the victims from prolonged exposure to cold water. The Board concurred in a Coast Guard Marine Board of Investigation recommendation that primary lifesaving devices must be those which keep persons out of the water whenever prevailing water temperatures are expected to be 60° or less. The Board also recommended that the Coast Guard (1) determine the effectiveness of its current efforts to inform the public of inspection certificate requirements; (2) seek legislation for a safety program uniformly protecting all passengers of larger capacity boats, including a boat safety documentation system similar to that used for private aircraft, and a special transfer-of-ownership inspection; (3) seek legislation requiring larger boats to have a flooding alert system for decked-over compartments; (4) seek legislation requiring sufficient lifeboats or liferafts—equipped with signaling devices whenever operations are in below-60° water—for all persons aboard larger boats; (5) include immersion among accident factors which are considered, and include that factor in computerized accident data; (6) sponsor development of "reliable cold-water survival equipment" for cold-water boating; and (7) set up a cold-water-survival public education program.

The report, No. USCG/NTSB-MAR-75-4, is available to the general public. Single copies may be obtained from the Commandant (GMVI-3/83), U.S. Coast Guard Headquarters, Washington, D.C. 20590. Multiple copies may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

RESPONSES TO SAFETY RECOMMENDATIONS

Received during the past week were the following letters responsive to safety recommendations, issued last June, following Board investigations into two railroad accidents:

From the U.S. Coast Guard, letter dated 23 September 1975, re recommendation R-75-15. The recommendation was contained in report No. NTSB-RAR-75-3 (40 FR 27081) concerning the collision of Penn Central Train OV-3 with an open drawbridge on the Cuyahoga River, Cleveland, Ohio, on May 8, 1974. The letter indicates that the Coast Guard concurs with the necessity to maintain regulations that will insure adequate accommodation of rail and river traffic in areas where there is conflict between the two, but, in this instance, "there is insufficient evidence that a conflict between the two modes of transportation exists that would justify the issuance of regulations governing the operation of the bridge at the present time." The Coast Guard states that it will continue review of the operating situation at this bridge, and, if frequent or recurring conflicts between traffic modes develop, that specific operating regulations will be promulgated to insure rail and river traffic safety.

From the Federal Railroad Association, letter of September 26, re R-75-18 and 19, and R-73-4 (reiterated). The recommendations were issued in report NTSB-RAR-75-4 (40 FR 27081) resulting from the hazardous materials accident in the railroad yard of the Norfolk and Western Railway at Decatur, Illinois, July 19, 1974. Concerning R-75-18, FRA, in cooperation with the Railway Progress Institute (RPI) and the Association of American Railroads (AAR), is conducting extensive research into tank car safety, including methods of protecting the tanks from the adverse effects of fires. FRA notes that safety relief devices, tank car steels, and thermal insulation are all being evaluated. Re R-75-19, FRA, in cooperation with the RPI and AAR, is now conducting switchyard impact tests at the Transportation Test Center, Pueblo, Colorado. FRA states, "The objectives of this program are to study the specific problems of head punctures and to determine the probable effectiveness of the shelf coupler, the head shield or both in combination, toward preventing the puncture." Regulations will be considered upon evaluation of these test results. With regard to R-73-4, issued in another hazardous materials accident in a railroad yard in East St. Louis, Illinois, January 27, 1972, FRA has revised accident reporting requirements under Part 225, effective January 1, 1975.

In its marine casualty report, No. USCG/NTSB-MAR-74-4, the Safety Board recommended that the Coast Guard require that every master of an ocean-going vessel inform himself of the pilot's plan to maneuver his ship in or out of a harbor and that the master determine, with the pilot's assistance, the critical aspects of the maneuver, including the pilot's plan for emergencies; the master should then be required to instruct his crew to insure that high-risk tasks receive priority. The Coast Guard responded 26 September 1975, stating, "The Marine Traffic Requirements which were published in Federal Register Volume 39, No. 126, 28 June 1974 as an Advance Notice of Proposed Rulemaking will satisfy this recommendation. We are presently evaluating this material and we will publish appropriate regulations in the very near future." The recommendation was issued in the report of the collision of the SS AFRICAN NEPTUNE with the Sidney Lanier Bridge, Brunswick, Georgia, 7 November 1972.

A $4.00 user-service charge will be made for each recommendation response, in addition to a charge of 10¢ per page for reproduction. All requests must be in writing, identified by report and/or recommendation number and date of this FEDERAL REGISTER notice. Address inquiries to: Publications Unit, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)))

MARGARET L. FISHER,
Federal Register Liaison Officer.

OCTOBER 6, 1975.

[FR Doc.75-27210 Filed 10-8-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-313]

ARKANSAS POWER AND LIGHT COMPANY

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Company, which revised Technical Specifications for operation of the Arkansas Nuclear One Unit 1 located in Pope County, Arkansas. The amendment is effective as of its date of issuance.

This amendment (1) modifies the rod withdrawal limit curves to include limitations associated with maintaining potential ejected control rod worth within previously established limits (including following control rod interchange) and limitations associated with maintaining shutdown margin, (2) deletes the separate specification on maximum inserted control rod worths, but includes the limits and bases therefor in (1) above, (3) incorporates an additional restriction on the regulating control rod positions prior to criticality to assure that the ejected rod worth does not exceed 1% delta k/k at hot zero power, and (4) permits the rod limits to be exceeded for a maximum period of four hours, provided that shutdown margin requirements are maintained and corrective measures are taken immediately to achieve a rod pattern consistent with the limit curves.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated August 15, 1975, (2) Amendment No. 6 to License No. DPR-51, with Change No. 6, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas 72801. A copy of items (2) and (3) may be obtained upon re-

quest addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 2nd day of October, 1975.

For the Nuclear Regulatory Commission.

B. C. BUCKLEY,
Acting Chief, Operating Reactors Branch #2, Division of Reactor Licensing.

[FR Doc.75-27172 Filed 10-8-75;8:45 am]

[Docket Nos. 50-461 and 50-462]

ILLINOIS POWER CO. (CLINTON POWER STATION, UNITS 1 AND 2)

Issuance of Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Illinois Power Company to conduct certain site activities in connection with the Clinton Power Station, Unit 1 and 2, prior to a decision regarding the issuance of construction permits.

The activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1), and include site clearing and grading, installation of construction buildings, construction of access and service roads, and excavation for certain facility structures.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Illinois Power Company and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders promulgated pursuant thereto. A Partial Initial Decision on matters relating to the National Environmental Policy Act and site suitability was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on September 30, 1975. A copy of the (1) Partial Initial Decision, (2) the applicant's Preliminary Safety Analysis Report and amendments thereto, (3) the applicant's Environmental Report, and amendments thereto, (4) the staff's Final Environmental Statement dated October 1974 and (5) the Commission's letter of authorization dated October 1, 1975, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois.

Dated at Rockville, Maryland, this 1st day of October, 1975.

For the Nuclear Regulatory Commission.

B. J. YOUNGBLOOD,
Chief, Environmental Projects Branch 3, Division of Reactor Licensing.

[FR Doc.75-27173 Filed 10-8-75;8:45 am]

[Docket No. 50-309]

MAINE YANKEE ATOMIC POWER CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 12 to Facility Operating License No. DPR-36 issued to Maine Yankee Atomic Power Company which revised Technical Specifications for operation of the Maine Yankee Atomic Power Station, Lincoln County, Maine. The amendment is effective as of its date of issuance.

The amendment changes the required installation date for emergency power transfer switches for the fill header root values from October 1, 1975 to December 1, 1975.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated September 25, 1975, as supported by letter dated September 26, 1975, (2) Amendment No. 12 to License No. DPR-36, with Change No. 20 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine.

A copy of items (2) and (3) 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 1st day of October, 1975.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch #4, Division of Reactor Licensing.

[FR Doc.75-27174 Filed 10-8-75;8:45 am]

[Docket No. 50-289]

METROPOLITAN EDISON CO., ET AL.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. DPR-50 issued to Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company which revised Technical Specifications for operation of the Three Mile Island Nuclear Station, Unit 1, located in Dauphin County, Pennsylvania. The amendment is effective as of its date of issuance.

The amendment relates to the environmental monitoring program and its reporting requirements and to administrative details which better state the intended meaning of the specifications and eliminate unwarranted costs.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the applications for amendment dated May 21, June 13 and June 20, 1975, and (2) Amendment No. 9 to License No. DPR-50 with Change No. 9. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the State Library of Pennsylvania, Government Publication Section, Education Building, Harrisburg, Pennsylvania.

A copy of item (2) 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 2nd day of October 1975.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch 4, Division of Reactor Licensing.

[FR Doc.75-27174 Filed 10-8-75;8:45 am]

[Docket No. STN 50-437]

OFFSHORE POWER SYSTEMS (FLOATING NUCLEAR PLANTS 1-8)

Availability of Safety Evaluation Report

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report on the proposed manufacture of floating nuclear plants on a repetitive assembly line basis. After assembly, the plants will undergo testing (without nuclear fuel) at the manufacturing site and subsequently will be towed to selected sites along or near the Atlantic and Gulf Coasts of the United States. Notice of receipt of Offshore Power Systems' application for a manufacturing license was published in the FEDERAL REGISTER on December 10, 1973 (38 FR 34008).

This application was submitted under one of the options of the Commission's March 5, 1973 Standardization Policy. The applicable option involves a stand-

ard design and an envelope of assumed site considerations for a specified number of plants to be manufactured at a location which is different from that where the plants will eventually be operated.

The report is being referred to the Advisory Committee on Reactor Safeguards (ACRS) and is being made available at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.; the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Florida 32204; Stockton State College Library, Pomona, New Jersey 08240; and the New Orleans Public Library, Business and Science Division, 219 Loyola Avenue, New Orleans, Louisiana 70140, for inspection and copying. The report (Document No. NUREG-75/100) can also be purchased, at current rates, from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 2nd day of October 1975.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors, Project Branch 1-3, Division of Reactor Licensing.

[FR Doc.75-27176 Filed 10-8-75;8:45]

[Docket No. 50-29]

YANKEE ATOMIC ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility Operating License No. DPR-3 issued to Yankee Atomic Electric Company which revised Technical Specifications for operation of the Yankee Atomic Power Station located in Rowe, Massachusetts. The amendment becomes effective 30 days after the date of issuance.

This amendment revises the reporting requirements of the Technical Specifications for the Yankee Atomic Power Station.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the applications for amendment dated December 10, 1974, and July 31, 1975, (2) Amendment No. 16 to License No. DPR-3, with Change No. 121, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. A copy of items (2) and (3) 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 2nd day of October 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Division of Reactor Licensing.

[FR Doc.75-27177 Filed 10-8-75;8:45 am]

[Docket Nos. 50-460, 50-513]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM (WPPSS NUCLEAR PROJECTS NOS. 1 AND 4)

Issuance of Revision to Limited Work Authorization

Pursuant to the provisions of 10 CFR 50.10(e) of the Nuclear Regulatory Commission's (Commission) regulations, the Commission has authorized the Washington Public Power Supply System to conduct certain site activities in connection with the WPPSS Nuclear Projects Nos. 1 and 4 prior to a decision regarding the issuance of construction permits. Notice of the Limited Work Authorization was published in the FEDERAL REGISTER on August 11, 1975 (40 F.R. 3374).

Since that time, the Atomic Safety and Licensing Board has determined that additional activities may be authorized under the Limited Work Authorization. The additional activities that are authorized are within the scope of those authorized by 10 CFR 50.10(e)(1) and 10 CFR 50.10(e)(3) and include excavation for structures, installation of column footings, foundation mat, base slabs, walls and slabs, installation of water pipe and placing, compacting, and density testing of backfill.

Any activities undertaken pursuant to this authorization are entirely at the risk of the Washington Public Power Supply System and the grant of the authorization has no bearing on the issuance of construction permits with respect to the requirements of the Atomic Energy Act of 1954, as amended, and rules, regulations, or orders of the Commission promulgated pursuant thereto.

A Memorandum and Order Making Findings Pursuant to 10 CFR 50.10(e)(3) Under Expedited Decisional Procedures Provided For In 10 CFR § 2.761 on matters relating to the National Environmental Policy Act and site suitability and unresolved safety issues was issued by the Atomic Safety and Licensing Board in the above captioned proceeding on September 30, 1975. A copy of (1) the Partial Initial Decision and the Atomic Safety and Licensing Board's Order of September 30, 1975; (2) the applicant's Preliminary Safety Analysis Report and amendments thereto; (3) the applicant's Environmental Report and amendments thereto; (4) the staff's Final Environmental Statement dated March 1975; and (5) the Commission's letters of authorization dated August 1, 1975, and October 3, 1975 are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C., and the Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352. The Final Environmental Statement (Document No. NUREG-75/012) may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161.

Dated at Rockville, Maryland, this 3rd day of October 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-27178 Filed 10-8-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 3, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. INTERNATIONAL TRADE COMMISSION

Producers', importers, purchasers, questionnaire on certain nonpowered hand tools, single-time, nonpowered hand tools industry, Harry B. Sheftel.

ENVIRONMENTAL PROTECTION AGENCY

Urine pesticide residue analysis report; tissue pesticide residue analysis report, patient summary report, 8510-8, 8510-9, 8510-10, on occasion, selected hospitals in continental United States, Marsha Traynham, 395-4529.

SMALL BUSINESS ADMINISTRATION

Timber set-aside program—questionnaire, single-time, bidders on national forest timber sales, Lowry, R. L., 395-3772.

DEPARTMENT OF AGRICULTURE

Economic Research Service:
U.S. food processor list update on overseas marketing, single-time, food processors, Lowry, R. L., 395–3772.
Coyote predation loss survey, single-time, large sheep producers, Lowry, R. L., 395–3772.
Farmers Home Administration, sellers certificate, FMHA 440–61, on occasion, sellers of FMHA financed homes, Harry B. Sheftel.

DEPARTMENT OF COMMERCE

Department of the Navy, Navy wives interview, single-time, wives of Navy enlisted men, Harry B. Sheftel.
National Bureau of Standards, NBS pressure measurement survey, NBS–1042, single-time, calibration laboratories, Harry B. Sheftel.
National Oceanic and Atmospheric Administration, climatological data users survey, on occasion, users of climatological data, Reese B. F., 395–3211.

DEPARTMENT OF DEFENSE

Department of the Navy:
Navy wives questionnaire, single-time, wives of Navy enlisted men, Harry B. Sheftel.
Navy wives survey, single-time, wives of Navy enlisted men, Harry B. Sheftel.
Departmental and other youth attitude tracking study, semi-annually, 16- to 21-year old males, Dick Eisinger, 395–6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, survey of foreign language registrations in United States institutions of higher education, fall 1976, OE 7600, annually, U.S. institutions of higher education, Joan Turek.
Health Resources Administration, update the national information system of optometrists, 1976, NCHS 0829, single-time, all licensed optometrists in the United States, George Hall, Lowry, R. L., 395–6140.
Office of Education:
Guidelines for evaluation of current basic title III programs, annually, institutions of post-secondary education, Lowry, R. L., 395–3772.
Survey of career education in teacher education, OE–439, single-time, teacher education departments, Joan Turek.
Office of Human Development, telephone survey of child welfare agencies, singletime, child welfare agencies, Human Resources Division, Sunderhauf, M. B., 395–3532.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Equal Opportunity:
Monthly sales report—insured home mortgage program, 935.1, on occasion, developers and sponsors using HUD sales housing programs, Community & Veterans' Affairs Division, 395–3532.
Affirmative fair housing marketing plans, 935.2, on occasion, developers and sponsors using HUD housing programs, Community & Veterans' Affairs Division, 395–3532.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, occupational wage survey—bituminous coal mining, BLS 3055, single-time, bituminous coal mining, Strasser, A., 395–5867.

DEPARTMENT OF STATE

Department of State (excluding aid and action), offer of employment to alien, single-time, companies hiring aliens, Harry B. Sheftel.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, forecast of availability of paving asphalt and road oil, 6–1329–A–1, annually, business firms, Lowry, R. L., 395–3772.

DEPARTMENT OF TRANSPORTATION

Departmental and other support statement and draft questionnaire, single-time, public transit operators, Strasser, A., 395–5867.

REVISIONS

VETERANS ADMINISTRATION

Declaration of marital status (veterans), 21–686–C, on occasion, claimant, Caywood, D. P., 395–3443.
Application for annual clothing allowance, 38 U.S.C. 362, 21–8678, on occasion, veterans, Caywood, D. P., 395–3443.

DEPARTMENT OF AGRICULTURE

Departmental and other, on-road vehicle failure questionnaire, single-time, disabled vehicle driver/owner, Strasser, A., 395–5867.

DEPARTMENT OF COMMERCE

Bureau of Census:
Steel shipping barrels, drums, and pails, M34K, monthly, pail and drum manufacturers, Peterson, M. O., 395–5631.
Annual report of shoe and slipper production, shipments and type of construction—long form, MA31A, annually, shoe manufacturers, Peterson, M. O., 395–5631.
Refrigeration and air conditioning equipment including warm air furnaces—annual production, MA–35M, annually, manufacturing establishments, Peterson, M. O., 395–5631.
1975 public juvenile detention and correctional facilities census; 1975 private juvenile detention and correctional facilities census, CJ–17, CJ–29, annually, juvenile correctional facilities, Ellett, C. A., 395–5867.
Office, computing, and accounting machines, MA–35R, annually, manufacturing establishments, Peterson, M. O., 395–5631.
Selected instruments and related products—annual report, MA–38B, annually, manufacturing establishments, Peterson, M. O., 395–5631.
Current population survey questionnaire, CPS–1, monthly, household respondents, Sunderhauf, M. B., 395–6140.
Switchgear, switchboard apparatus, relays, and industrial controls, AM–36A, annually, manufacturing establishments, Peterson, M. O., 395–5631.
Closures for containers, M34H, monthly, manufacturing establishment, Peterson, M. O., 395–5631.

DEPARTMENT OF DEFENSE

Departmental and other, statement regarding disposition and use of property (bidders on foreign excess personal property); on occasion, buyers of DoD excess foreign property, Harry B. Sheftel.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health resources administration, research design to conduct analysis of State DHR effect on HRA/NIMH programs, opel 0912, single-time, State/local health programs' officials, legislators, Reese, B. F., 395–3211.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Economic Research Service, farm real estate taxes levied (land and buildings), EDD–1A, annually, local tax officials, Marsha Traynham, 395–4529.
Agricultural Marketing Service, annual report of cooperative milk marketing association, DA–24, annually, milk cooperatives, Marsha Traynham, 395–4529.
Statistical reporting service, receipts and disposition of fruit by shippers and handlers, other (see SF–83), fruit shippers and handlers, Marshal Traynham, 395–4529.
Rural Electrification Administration, evaluation summary of operations and maintenance, REA 300, on occasion, REA Electric Borrowers, Marsha Traynham, 395–4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, pre-survey questionnaire (for hospitals—regarding compliance with Social Security Act); SSA–1536, on occasion, Hospitals, Caywood, D. P., 395–3443.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75–27282 Filed 10–8–75;8:45 am]

SMALL BUSINESS ADMINISTRATION

AFFILIATED INVESTMENT FUND, LTD.

Issuance of Small Business Investment Company License

On July 16, 1975, a notice was published in the FEDERAL REGISTER (40 F.R. 29941) stating that an application had been filed by Affiliated Investment Fund, Ltd., 2225 Shurfine Drive, College Park, Georgia 30337 with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1975)) for a license as a small business investment company (SBIC).

Interested parties were given until the close of business July 31, 1975, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued license No. 04/04–0118 to Affiliated Investment Fund, Ltd. to operate as an SBIC.

Date: October 1, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75–27146 Filed 10–8–75;8:45 am]

[License No. 05/05–0105]

TOMLINSON CAPITAL CORP.

Issuance of a Small Business Investment Company License

On June 23, 1975, a notice was published in the FEDERAL REGISTER (40 F.R. 26317) stating that an application had been filed by Tomlinson Capital Corp., 13700 Broadway, Cleveland, Ohio 44125 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1975))

for a license as a small business investment company.

Interested parties were given until close of business July 8, 1975, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0105 to Tomlinson Capital Corp., to operate as a small business investment company.

Dated: October 1, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75-27145 Filed 10-8-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CANADIAN JAVELIN, LTD.
Suspension of Trading

OCTOBER 3, 1975.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. 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 Section 12(k) 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 October 6, 1975 through October 15, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-27184 Filed 10-8-75;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.
Suspension of Trading

OCTOBER 3, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Continental Vending Machine Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 7, 1975 through October 16, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-27185 Filed 10-8-75;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORP. OF AMERICA
Suspension of Trading

OCTOBER 3, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½% debentures due 1990, 5½% convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 4, 1975 through October 13, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-27186 Filed 10-8-75;8:45 am]

[File No. 500-1]

FIRST VIRGINIA MORTGAGE AND REAL ESTATE INVESTMENT TRUST
Suspension of Trading

OCTOBER 2, 1975.

The shares of beneficial interest, warrants and 8% to 12% senior subordinated floating rate notes due 1980 of First Virginia Mortgage and Real Estate Investment Trust being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of First Virginia Mortgage and Real Estate Investment Trust 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 Section 12(k) 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 11:30 a.m. (e.d.t.) on October 2, 1975 through midnight (e.d.t.) on October 11, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-27187 Filed 10-8-75;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.
Suspension of Trading

OCTOBER 3, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 4, 1975 through October 13, 1975.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-27188 Filed 10-8-75;8:45 am]

[70-5743]

MISSISSIPPI POWER & LIGHT CO.
Articles of Incorporation and Solicit Proxies in Connection Therewith

OCTOBER 3, 1975.

Notice is hereby given that Mississippi Power & Light Company ("Mississippi"), P.O. Box 1640, Jackson, Mississippi, 39205, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the following proposed transactions. All interested parties are referred to said declaration, which is summarized below, for a complete statement of the proposed transactions.

In order to provide a portion of the funds which will be needed to carry forward the construction program over the next five years, Mississippi proposes to amend its Articles of Incorporation so as to increase its authorized preferred stock from 454,476 to 704,476 shares. Mississippi also proposes to add to the authority of the Board of Directors, in establishing new series of preferred stock and in fixing those terms thereof as to which there may be variations between series, authority to fix and determine sinking fund provisions for the redemption or purchase of shares of such new series of preferred stock. In connection therewith, Mississippi proposes to solicit proxies from the holders of its outstanding stock for use at a special meeting of stockholders to be held on December 15, 1975.

It is stated that Mississippi finds it desirable to provide a portion of its capital requirements through the issuance and sale, from time to time, of additional preferred stock and that, under recent market conditions, other electric utilities have found it possible to sell preferred stock at acceptable divi-

dend rates only if the holders of the new series are granted the benefit of a sinking fund. Mississippi presently has 378,808 shares of preferred stock outstanding.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $17,000, including legal fees of $10,500. It is stated that no State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 29, 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 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 declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules under the Act 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.75-27189 Filed 10-8-75;8:45 am]

[Release No. 34-11710; SR File No. SR-PBWSE-75-4]

PBW STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Notice of filing of proposed rule change by PBW Stock Exchange, Inc. and order approving proposed rule change in the matter of PBW Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia, PA 19103.

I. Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 22, 1975, the PBW Stock Exchange, Inc. ("PBW"), a national securities exchange registered with the Commission pursuant to Section 6 of the Act, filed with the Commission copies of a proposed rule change. The proposed rule change would amend the paragraphs 3081(a) and (b) of the PBW Plan for the trading of options. Paragraph 3081 (a) and (b) set forth the standards for the selection of underlying securities for option trading on PBW. Currently, the PBW's standards for the selection of underlying securities incorporate the Commission's requirements for the registration of securities on Form S-7 under the Securities Act of 1933 as well as providing additional standards.

The Commission has recently proposed modifications relaxing the requirements for the use of Form S-7 and has indicated that, pending a decision by the Commission to adopt the proposed modifications, the Commission and the staff would not object if Form S-7 is used to register securities of an issuer that meets the proposed requirements as to the use of that form (Securities Act of 1933 Release No. 5613 (Sept. 11, 1975); 40 Fed. Reg. 44584 (Sept. 29, 1975)). The amendment of paragraphs 3081(a) and (b) of the PBW Plan would conform the rules of the PBW to the proposed modifications relaxing the requirements for the use of Form S-7. The effect of the change will be to make eligible certain securities the issuers of which did not meet earlier S-7 standards.

II. Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of October 6, 1975. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-PBWSE-75-4.

III. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular the requirements of Section 6 and the rules and regulations thereunder.

IV. Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing thereof.

A rule change similar to the proposed rule change filed by PBW was filed with the Commission by the Chicago Board Options Exchange ("CBOE") on September 10, 1975, and has been published for comment (Securities Exchange Act Release No. 11674 (Sept. 24, 1975); 40 Fed. Reg. 44905 (Sept. 30, 1975)). No comments have been received concerning the CBOE's rule change.

The CBOE's rule change took effect upon filing pursuant to Section 19(b)(3)(A) of the Act. The PBW's proposed rule change is not eligible for immediate effectiveness pursuant to Section 19(b)(3)(A) because of technical differences in the structure of the rules of the two exchanges. Nevertheless, the Commission does not believe that the technical differences warrant delay in approval of the PBW's proposed rule change under the circumstances, where several exchanges are in pilot phase of exchange option trading. As noted above, the PBW's rules relating to the selection of underlying securities for option trading had incorporated the requirements heretofore in effect for use of the S-7 registration form. With the relaxation of those requirements by the Commission, all exchanges on which options are traded should be permitted to effect parallel changes in their own rules promptly if they so desire.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-27191 Filed 10-8-75;8:45 am]

[File No. 500-1]

WESTGATE CALIFORNIA CORP.

Suspension of Trading

OCTOBER 3, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5% and 6%), the 6% subordinated debentures due 1979 and the 6½% convertible subordinated debentures due 1987, and all other securities of Westgate California Corporation being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from October 4, 1975 through October 13, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-27190 Filed 10-8-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 877]

ASSIGNMENT OF HEARINGS

OCTOBER 6, 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.

MC 140611, Harkema Express Lines, Ltd., now assigned November 17, 1975 at Buffalo, New York; will be held in Room 714, U.S. Courthouse, 68 Court Street.

MC 128273 Sub 182, Midwestern Distribution, Inc., now being assigned November 3, 1975 (2 days), at Dallas, Tex., in Room 5A15, New Federal Building, 1100 Commerce Street.

MC 123407 Sub 234, Sawyer Transport, Inc., now assigned November 11, 1975, at Dallas, Texas, will be held in Room 5A15–17, New Federal Building, 1100 Commerce Street.

MC 103498 Sub 43, W. D. Smith Truck Line, Inc., now assigned November 12, 1975, at Dallas, Texas, will be held in Room 5A15–17, New Federal Building, 1100 Commerce Street.

MC 63792 Sub 23, Tom Hicks Transfer Company, Inc., now assigned November 13, 1975, at Dallas, Texas, will be held in Room 5A15–17, New Federal Building, 1100 Commerce Street.

No. 36090, General Environment Corporation—Petition for Declaratory Order—Applicability Of Tariff Provisions, now assigned November 17, 1975, at Dallas, Texas, will be held in Room 5A15–17, New Federal Building, 1100 Commerce Street.

MC 8842 Sub 4, Dawson Bus Service, Inc., now assigned November 3, 1975, at Dover, Delaware, will be held in South Conference Room, Highway Administration Bldg., Route 13.

MC–F–12304, Mid-States Trucking Co.—Investigation of Control—Govan Express, Inc., and Denton Produce, Inc., now assigned November 3, 1975, at Dallas, Tex., is canceled.

MC 123407 Sub 194, Sawyer Transport, Inc., now assigned October 29, 1975, at New Orleans, Louisiana, is cancelled and application is dismissed.

MC 82841 Sub 159, Hunt Transportation, Inc., now being assigned November 13, 1975 (1 day), at Omaha, Nebraska; in a hearing room to be designated later.

MC 136212 Sub 14, Jansen Trucking Co., Inc., now being assigned November 14, 1975 (1 day), at Omaha, Nebraska; in a hearing room to be designated later.

MC 107012 Sub 220, North American Van Lines, Inc., now assigned October 24, 1975, at Atlanta, Georgia, is cancelled and application dismissed.

MC–C 7925, Southeastern Freight Lines, Et Al. vs Crescent Motor Line, Inc., now assigned October 22, 1975, at Columbia, South Carolina, is cancelled.

MC 117883 Sub 196, Subler Transfer, Inc., now assigned October 29, 1975, at St. Louis, Missouri, is canceled and transferred to Modified Procedure.

MC 136647 Sub 17, Green Mountain Carriers, Inc., now assigned November 4, 1975, at Burlington, Vermont, will be held in the Bankruptcy Courtroom, Room 533, 5th Floor, Post Office & Federal Building, 11 Elmwood Avenue.

MC 127616 Sub 20, Savage Trucking Company, Inc., now assigned November 10, 1975, at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.

MC 140747, Rancocas Valley Bus Service, Inc., now assigned November 11, 1975, at Philadelphia, Pa., will be held in Room 3240, William J. Green, Jr., Federal Building, 600 Arch Street.

MC 130286, Northern Transportation Services, Inc., now assigned November 19, 1975, at Montpelier, Vt., will be held in the Courtroom, Third Floor, Post Office & Federal Building, 87 State Street.

MC–F–12210, Jones Truck Lines, Inc.—Purchase (Portion)—Shippers Express, and Shippers Express—Purchase (Portion)—Jones Truck Lines, Inc., and MC 111231 Sub 186, Jones Truck Lines, Inc., now assigned November 4, 1975, at Memphis, Tenn., will be held in Room 978, Federal Office Building, 167 N. Main Street.

MC 78643 Sub 61, Hart Motor Express, Inc., now assigned November 4, 1975, at Bismarck, N.D., will be held in the Blue Room, Ground Floor, State Capitol Building.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-27222 Filed 10-8-75;8:45 am]

[AB 6 (Sub-No. 23)]

BURLINGTON NORTHERN, INC.

Abandonment Between Vaughn and Augusta, in Cascade, Lewis, and Clark Counties, Montana

OCTOBER 6, 1975.

Present: Virginia Mae Brown, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding, and of a staff-prepared environmental threshold assessment survey which is available to the public upon request; and

It appearing, That no environmental impact statement need be issued in this proceeding because this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.*, and good cause appearing therefor:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Cascade, and Lewis and Clark Counties, Mont., on or before October 17, 1975 and certify to the Commission that this has been accomplished.

And it is further ordered, That notice of this finding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Dated at Washington, D.C., this 22nd day of September, 1975.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD,
Secretary.

BURLINGTON NORTHERN, INC., ABANDONMENT BETWEEN VAUGHN AND AUGUSTA, IN CASCADE, LEWIS AND CLARK COUNTIES, MONTANA

The Interstate Commerce Commission hereby gives notice that by order dated September 22, 1975, it has been determined that the proposed abandonment by Burlington Northern, Inc., of its line from Milepost .10, near Vaughn, to Milepost 42.24, near Augusta, in Cascade, and Lewis and Clark Counties, Mont., if approved by the Commission, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. §§ 4321, *et seq.*, and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that the associated environmental impacts are considered insignificant because of the low volume of traffic involved and the absence of any major historic, safety, or ecological consequences associated with the proposed abandonment. Highways in the vicinity of the subject line are able to accommodate the resultant slight diversion to truck transport. There are no definitive land-use plans for the area with which the abandonment might conflict.

This determination was based upon the staff preparation and consideration of an environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-7966.

Interested persons may comment on this matter by filing their statements in writing with the Interstate Commerce Commission, Washington, D.C. 20423, on or before November 3, 1975.

This negative environmental determination shall become final unless good and sufficient reason demonstrating why an environmental impact statement should be prepared for this action is submitted to the Commission by the above-specified date.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-27224 Filed 10-8-75;8:45 am]

[Notice No. 94]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

OCTOBER 9, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 C.F.R. Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition

seeking reconsideration of the following numbered proceedings on or before October 29, 1975. Pursuant to Section 17 (8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75940. By order of October 3, 1975, the Motor Carrier Board approved the transfer to East Kentucky Theatre Service, Inc., Pikesville, Ky., of the operating rights in Certificates Nos. MC-111227, MC-111227 (Sub-No. 2), and MC-111227 (Sub-No. 3) issued March 8, 1951, December 9, 1960, and August 18, 1967, to Lester Eversole, doing business as Lester Eversole Trucking Co., Hazard, Ky., authorizing the transportation of films and advertising matter and supplies between Lexington, Ky., and Cincinnati, Ohio, on the one hand, and, on the other, points in 14 named counties in Kentucky. Ollie L. Merchant, 328 Starks Building, Louisville, Ky. 40202, Attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-27223 Filed 10-8-75;8:45 am]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

[Notice No. 80]

OCTOBER 3, 1975.

The following applications are governed by Special Rule 1100. 247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the Federal Register issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the Federal Register. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the "Federal Register" of a notice that the proceeding has been assigned for oral hearing.*

Evidence respecting how equipment is expected to be returned to an origin point, as well as other data relating to operational feasibility (including the need for dead-head operations), must be presented as part of an applicant's initial evidentiary presentation (either at oral hearing or in its opening verified statement under the modified procedure) with respect to all applications filed on or after December 1, 1973.

If an applicant states in its initial evidentiary presentation that empty or partially empty vehicle movements will result upon a grant of its application, applicant will be expected (1) to specify the extent of such empty operations, by mileages and the number of vehicles, that would be incurred, and (2) to designate where such empty vehicle operations will be conducted.

Each applicant (except as otherwise specifically noted) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2202 (Sub-No. 497), filed September 8, 1975. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Applicant's representative: William O. Turney, 2001 Massachusetts Ave., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of Kansas City Power & Light Company at or near Iatan, Mo. as an off-route point in connection with applicant's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo. or Washington, D.C.

No. MC 14251 (Sub-No. 5), filed September 8, 1975. Applicant: COLUMBUS RETAIL MERCHANTS DELIVERY, INC., 3275 Alum Creek Drive, Columbus, Ohio 43207. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Franklin County, Ohio, on the one hand, and, on the other, points in Ohio, restricted against service to Commercial Zone points outside Ohio.

NOTE.—By instant application, applicant seeks to convert its Certificate of Registration No. MC 14251 (Sub-No. 3) to a Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 18259 (Sub-No. 6), filed August 21, 1975. Applicant: JACKSON DISTRIBUTION CORP., 348 West Fayette St., P.O. Box 204-Salina Station, Syracuse, N.Y. 13208. Applicant's representative: Norman M. Pinsky, 345 South Warren St., Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses and in connection, therewith, *equipment, materials, and supplies* used in the conduct of such business, (a) between points in St. Lawrence, Jefferson, Lewis, Herkimer, Oneida, Oswego, Otsego, Chenango, Madison, Cortland, Onondaga, Cayuga, Tompkins, Schuyler, Seneca, Wayne, Ontario, Yates and Steuben Counties, N.Y.; (b) between points in the territories specified in (a) above, on the one hand, and, on the other, points in Steuben, Allegany, Cattaraugus, Erie, Niagara, Orleans, Genesee, Wyoming, Livingston, Monroe, Ontario and Yates Counties, N.Y.; and (c) from Syracuse, N.Y., to points in St. Lawrence, Franklin, Steuben, Chemung, Tioga, Broome, Chenango, Delaware, Otsego, Schohare, Montgomery, Fulton, Herkimer and Schenectady Counties, N.Y., and points in Bradford and Susquehanna Counties, Pa.

NOTE.—Applicant holds contract carrier authority in MC 18258 and subs thereunder, therefore duplicate authority may be involved, however applicant requests the con-

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

tract carrier authority be revoked upon granting of this authority. If a hearing is deemed necessary, the applicant requests it be held at either Syracuse or Albany, N.Y.

No. MC 20722 (Sub-No. 28), filed September 12, 1975. Applicant: M & G CONVOY, INC., 590 Elk Street, Buffalo, N.Y. 14240. Applicant's representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles, trucks and buses*, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in secondary movements, in truckaway service, from Providence, R.I., to points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Massachusetts, New York, New Jersey and Pennsylvania, restricted to the transportation of traffic moving for Chrysler Corporation and originating at plantsites and storage facilities in Japan.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 22229 (Sub-No. 104), filed September 15, 1975. Applicant: TERMINAL TRANSPORT COMPANY, INC., 248 Chester Ave., S.E., Atlanta, Ga. 30316. Applicant's representative: Ralph B. Matthews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the S.S. Kresge Company located at Haggerty Road and Joy Blvd., Canton Township (Wayne County), Mich., as an off-route point in connection with applicant's regular route operations at Detroit, Mich.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 29748 (Sub-No. 4), filed August 5, 1975. Applicant: DIRECT TRANSPORT, INC., 2nd and Stockton St., P.O. Box 4113, Richmond, Va. 23224. Applicant's representative: Eugene M. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, sheet iron products, fertilizer, doors, windows, door and window frames, boxes, box shooks, lumber, sash weigh's, steel bars, metal laths, expansion joint materials and wire forms*, (1) between Richmond, Va., on the one hand, and, on the other, points in Virginia, North Carolina and South Carolina; and (2) from Richmond, Va., to points in Virginia and North Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Richmond, Va., or Washington, D.C.

No. MC 34027 (Sub-No. 8), filed September 5, 1975. Applicant: GREETINGS, INC., 214 South Clark, P.O. Box 82, Pella, Iowa 50219. Applicant's representative: Larry D. Knox, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Des Moines, Iowa, and Chariton, Iowa, in connection with carrier's presently authorized regular-route operations, serving no intermediate points: From Des Moines over U.S. Highway 65 to junction U.S. Highway 34, thence over U.S. Highway 34 to Chariton, and return over the same route; (2) Between Des Moines, Iowa and Knoxville, Iowa, in connection with carrier's presently authorized regular-route operations, serving no intermediate points: From Des Moines over Iowa Highway 5 to Knoxville, and return over the same route; and (3) Between Monroe, Iowa and Knoxville, Iowa, in connection with carrier's presently authorized regular-route operations, serving no intermediate points, and serving Monroe for purposes of joinder only: From Monroe over Iowa Highway 14 to Knoxville, and return over the same route, parts (1), (2) and (3) are alternate routes for operating convenience only.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 34099 (Sub-No. 4), filed September 11, 1975. Applicant: SILCON TRUCKING CO., INC., 411 West Street, West Bridgewater, Mass. 02379. Applicant's representative: David E. McCabe (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment), between points in Massachusetts.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 35628 (Sub-No. 376), filed September 4, 1975. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville, SW., Grand Rapids, Mich. 49502. Applicant's representative: Edward Malinzak, 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and facilities of Chesebrough-Pond's, Inc. located at Huntsville, Ala. as an off-route point in connection with applicant's existing regular route authority.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, Mass. or Washington, D.C.

No. MC 46280 (Sub-No. 77), filed September 8, 1975. Applicant: KEY LINE FREIGHT, INC., 15 Andre Street, SE., Grand Rapids, Mich. 48167. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite and warehouse facilities of the Ramsey Corporation, located at or near Manchester, Mo., as an off-route point in connection with carrier's regular route operations to and from St. Louis, Mo., restricted to traffic moving between Michigan and the plantsite and warehouse facilities of the Ramsey Corporation.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or Detroit, Mich.

No. MC 47583 (Sub-No. 25), filed September 11, 1975. Applicant: TOLLIE FREIGHTWAYS, INC., 41 Lyons Avenue, Kansas City, Kans. 66118. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, roofing materials, insulating products and materials* including products necessary in the installation thereof, from Pauline, Kans., and the plantsite and storage facility of Owens-Corning Fiberglass Corporation, of Kansas City, Kans., to points in Nebraska and Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 56679 (Sub-No. 83), filed September 10, 1975. Applicant: BROWN TRANSPORT CORP., 125 Milton Ave., SE., P.O. Box 6985, Atlanta, Ga. 30315. Applicant's representative: B. K. McClain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from the plantsite and storage facilities of E. J. Brach & Sons, Division of American Home Products Corporation located at or near Carol Stream, Ill., to points in Georgia, North Carolina, South Carolina and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant request it be held at Chicago, Ill., or Atlanta, Ga.

No. MC 56679 (Sub-No. 84), filed September 17, 1975. Applicant: BROWN TRANSPORT CORP., 125 Milton Ave. SE., Atlanta, Ga. 30315. Applicant's representative: B. K. McClain, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those

of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those which because of size or weight require the use of special equipment), serving Chattanooga, Tenn. as an off-route point in connection with applicant's presently authorized regular route operations between Atlanta, Ga. and Knoxville, Tenn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 59323 (Sub-No. 6), filed September 12, 1975. Applicant: BAY MOTOR EXPRESS, INC., Route 17 and Robinson Road, Lodi, N.J. 07644. Applicant's representative: Edward L. Nehez, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Lodi, N.J., on the one hand, and, on the other, points in Passaic, Bergen, Hudson, Essex, Union, Middlesex, Morris, Sussex, Somerset and Monmouth Counties, N.J., and points in Westchester and Rockland Counties, N.Y.

NOTE: Applicant states that it presently serves the above areas from New York, N.Y., and that the instant application is motivated by the move of its terminal to Lodi, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J. or New York, N.Y.

No. MC 59583 (Sub-No. 151), filed September 9, 1975. Applicant: THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: Ronald R. Tiller, P.O. Box 343, Kingsport, Tenn. 37662. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, siding, fittings, couplings, connections, and accessories*, from the plantsites of Certain-Teed Products Corporation located at Williamsport, Md. and Social Circle, Ga. to points in and east of Minnesota, Iowa, Missouri, Arkansas and Louisiana; and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities described above (except commodities in bulk, and those which because of size, shape or weight require the use of special equipment), from the destination territory named in (1) above, to the plantsites of Certain-Teed Products Corporation located at Williamsport, Md. and Social Circle, Ga.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 59583 (Sub-No. 152), filed September 22, 1975. Applicant: THE MASON AND DIXON LINES, INC., Eastman Road, P.O. Box 969 Kingsport, Tenn. 37662. Applicant's representative: Kim D. Mann, 702 World Center Bldg., 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment), serving the facilities of Londontown Corporation, located at Eldersburg, Carroll County, Md., as an off-route point in connection with applicant's authorized regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 61592 (Sub-No. 368), filed September 12, 1975. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, R.R. #3, Jeffersonville, Ind. 47130. Applicant's representative: E. A. DeVine, 101 First Avenue, P.O. Box 737, Moline, Ill. 61265. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats*, including frozen (except in bulk, in tank vehicles), from points in Jefferson and Bonneville Counties, Idaho, to points in Minnesota, South Dakota, Nebraska, Iowa, Wisconsin, Illinois, Kansas and Missouri.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 66886 (Sub-No. 48), filed September 15, 1975. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut Street, Kansas City, Mo. 64108. Applicant's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heat exchangers and equalizers* for air, gas or liquids; *machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas, or liquids; and (2) *parts, materials, equipment and supplies* used in the manufacture, distribution, installation, or operation of those items named in (1) above (except in bulk), between points in Monroe, Randolph, Perry and those in St. Clair Counties, Ill. on and south of Illinois Highways 177 and 158, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to shipments originating at or destined to the plantsite and warehouse facilities of the Singer Company, located at Monroe, Randolph, Perry and St. Clair Counties, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or St. Louis, Mo.

No. MC 71459 (Sub-No. 55), filed September 10, 1975. Applicant: O. N. C. FREIGHT SYSTEMS, a corporation, 2800 West Bayshore Road, Palo Alto, Calif. 94303. Applicant's representative: Roland Rice, 1111 E Street, Suite 618, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Salt Lake City, Utah and the junction of U.S. Highway 160 and Colorado Highway 145: From Salt Lake City over Alternate U.S. Highway 50 to junction U.S. Highway 50, thence over U.S. Highway 50 to junction U.S. Highway 550, thence over U.S. Highway 550 to junction Colorado Highway 62, thence over Colorado Highway 62 to junction Colorado Highway 145, thence over Colorado Highway 145 to junction U.S. Highway 160, and return over the same route, serving Loma, Fruita, Grand Junction, Orchard Mesa, Whitewater, Delta, Olathe and Montrose, Colo. as intermediate points, and serving the junction of U.S. Highway 160 and Colorado Highway 145 for purposes of joinder only; (2) Between Montrose, Colo. and Pueblo, Colo.: From Montrose over U.S. Highway 50 to Pueblo, and return over the same route, serving all intermediate points; (3) Between Flagstaff, Ariz. and Cortez, Colo.: From Flagstaff over Interstate Highway 40 to junction U.S. Highway 666, thence over U.S. Highway 666 to Cortez, and return over the same route, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations, serving no intermediate points; and (4) Between Kayenta, Ariz. and the junction of U.S. Highway 163 and U.S. Highway 50 (Interstate Highway 70): From Kayenta over U.S. Highway 163 to junction U.S. Highway 50, and return over the same route, as an alternate route for operating convenience only in connection with applicant's authorized regular route operations, serving no intermediate points, and serving the junction of U.S. Highway 50 and U.S. Highway 163 for joinder purposes only.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Grand Junction and Montrose, Colo., and Salt Lake City, Utah.

No. MC 73165 (Sub-No. 368), filed September 10, 1975. Applicant: EAGLE MOTOR LINES, INC., P.O. Box 11086, 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: William P. Parker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and storage facilities of Georgetown Texas Steel Corp., located at or near Beaumont, Tex., to points in Arkansas, Missouri, Iowa, Oklahoma, Kansas, Nebraska, New Mexico, and Colorado, restricted to the transportation of traffic originating at the plantsite and storage facilities of Georgetown Texas Steel.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, or Austin, Tex.

No. MC 83539 (Sub-No. 416), filed September 8, 1975. Applicant: C & H

TRANSPORTATION CO., INC., 1936–2010 West Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bus bodies (SKD)*, and *press brake parts*, between points in Harrison County, Tex., on the one hand, and, on the other, points in St. Joseph County, Ind.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 83539 (Sub-No. 417), filed September 8, 1975. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce St., P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), each weighing 15,000 pounds or less and *attachments, parts and accessories therefor* when moving at the same time and in the same equipment, from Houston, Tex., to points in Illinois, Iowa, Nebraska, Utah, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex.

No. MC 93980 (Sub-No. 61), filed September 17, 1975. Applicant: VANCE TRUCKING COMPANY, INCORPORATED, P.O. Box 1119, Raleigh Road, Henderson, N.C. 27536. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wooden fencing, fencing materials and forest products*, (a) from points in Chowan County, N.C., to points in the United States in and east of Wisconsin, Illinois, Kentucky, Tennessee, Mississippi and Louisiana; and (b) from plants, mill sites and storage facilities of MacMillian Bloedel Enterprises, Inc., and its subsidiaries at points in and east of Wisconsin, Illinois, Kentucky, Tennessee, Mississippi and Louisiana, to points in Maryland, Virginia, North Carolina and South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Raleigh, N.C., or Washington, D.C.

No. MC 93980 (Sub-No. 62), filed September 17, 1975. Applicant: VANCE TRUCKING COMPANY, INCORPORATED, P.O. Box 1119, Raleigh Road, Henderson, N.C. 27536. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Bldg., 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) *Lumber*, from points in North Carolina within 100 miles of Henderson, N.C., including Henderson, N.C., to points in Alabama, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Ohio, Tennessee, West Virginia, Michigan and Illinois; and (2) *Wooden fencing and materials*, from points in Nash and Halifax Counties, N.C., to points in the United States in and east of Indiana, Kentucky, Tennessee and Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Raleigh, N.C.

No. MC 94201 (Sub-No. 136), filed August 7, 1975. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, Ga. 30316. Applicant's representative: Maurice F. Bishop, 601–09 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cullman, Ala., and Birmingham, Ala., from Cullman, Ala., over Interstate Highway 65 and also U.S. Highway 31, to Birmingham, Ala., and return over the same route, as an alternate route for operating convenience only, in connection with applicant's regular route operations, serving no intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Birmingham, Ala. or Washington, D.C.

No. MC 95540 (Sub-No. 931), filed September 9, 1975. Applicant: WATKINS MOTOR LINES, INC., 1940 Monroe Drive, P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Jerome F. Marks (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas;* and (2) *bananas* when transported in mixed loads with commodities exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, from Brownsville, Hidalgo, Laredo, McAllen, Rio Grande City, and Roma, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 97710 (Sub-No. 7) (Correction filed April 14, 1975, and published in the FEDERAL REGISTER issue of June 19, 1975, and republished as corrected this issue. Applicant: PETERS TRUCK LINES, a corporation, 907 S. Main St., P.O. Box 218, Yreka, Calif. 96097. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, Calif. 94104.

NOTE.—The purpose of this correction is to indicate that applicant is seeking an extension of operating authority in addition to a conversion of its Certificate of Registration. The purpose statement in the note to the original publication may have been misleading in that it indicated the purpose of the application was the conversion of applicant's Certificate of Registration, and failed to mention that an extension of authority was also sought. Any person who may have been prejudiced by the failure of the note in the original publication to indicate that applicant seeks an extension of operating authority in addition to the conversion may file an appropriate protest within 30 days of publication of this correction in the FEDERAL REGISTER.

HEARING: December 8, 1975, at 9:30 a.m. Local Time, at Sacramento, Calif., in a hearing room to be later designated.

No. MC 100318 (Sub-No. 1), filed September 8, 1975. Applicant: JAMES F. MOLLENHAUER, doing business as, CITY TRANSPORT COMPANY, P.O. Box 331, Cherry Hill, N.J. 08002. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clothing and wearing apparel* on hangers, hanger packs and flat packs, in vehicles, specially equipped with stationary hanger racks, between Philadelphia, Pa., on the one hand, and, on the other points in Deptford Township, Gloucester County, and Trenton, N.J.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Philadelphia, Pa., or Washington, D.C.

No. MC 102295 (Sub-No. 27), filed September 12, 1975. Applicant: GUY HEAVENER, INC., 480 School Lane, Harleysville, Pa. 19438. Applicant's representative: Maxwell A. Howell, 1511 K St., NW., Suite 1100, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand stone and gravel*, from points in Mercer County, N.J., and points in that part of New Jersey on and south of New Jersey Highway 33, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 104104 (Sub-No. 12), filed September 10, 1975. Applicant: GEORGE A. FETZER, INC., RD 1, Augusta, N.J. 07822. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulating materials and products, and materials and supplies* used in connection therewith (except commodities in bulk), from Birmingham, Ala., Netcong, N.J., and Bethlehem, Pa., to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada; and (2) *materials and supplies* used in the manufacturing

and installing of insulating materials and products (except commodities in bulk), from points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, to the International Boundary line between the United States and Canada, to Birmingham, Ala., Netcong, N.J., and Bethlehem, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Newark, N.J., or Washington, D.C.

No. MC 107012 (Sub-No. 227), filed September 15, 1975. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway and Myer Road, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets*, from Des Moines, Iowa, to points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Des Moines, Iowa.

No. MC 107678 (Sub-No. 58), filed September 15, 1975. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott, P.O. Box 9698, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, 800 Bank of the Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite clay, processed clay, foundry molding sand treating compounds and wood flour*, between the plantsites of American Colloid Company located at or near Aberdeen, Miss., and Letohatchee, Ala., on the one hand, and, on the other, points in Arkansas, Kansas, Louisiana, New Mexico, Oklahoma and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex., or Washington, D.C.

No. MC 109324 (Sub-No. 31), filed September 16, 1975. Applicant: GARRISON MOTOR FREIGHT, INC., P.O. Box 969, Harrison, Ark. 72601. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Bldg., Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous glass products and materials; mineral wool, mineral wool products and materials; insulated air ducts and insulating products and materials*, including products necessary in the installation of all of said products (except commodities in bulk), from the plantsite and other facilities of Certainteed Products Corp., located at or near Kansas City, Kans., to points in Arkansas and Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Kansas City, Mo., or Washington, D.C.

No. MC 110420 (Sub-No. 745), filed September 11, 1975. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ink and ink materials*, in bulk, in tank vehicles, from New Albany, Ind., to points in Illinois, Kentucky, Mississippi, New York, Ohio, Tennessee and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Detroit, Mich.

No. MC 110563 (Sub-No. 161), filed September 18, 1975. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, Sidney, Ohio 45365. Applicant's representative: Joseph M. Scanlan, 111 W. Washington Ave., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, 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 (except hides and commodities in bulk) from Booker, Tex., to points in Illinois, Indiana, Ohio, Michigan, Kentucky, Pennsylvania, West Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine and the District of Columbia, restricted to traffic originating at Booker, Tex.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Amarillo, Tex.

No. MC 110683 (Sub-No. 106), filed September 16, 1975. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, Va. 24401. Applicant's representative: Francis W. McInerny, 1000 Sixteenth Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring the use of special equipment), serving the plantsite and warehouse facilities of Londontown Corporation, located at or near Eldersburg, Md., as an off-route point in connection with carrier's regular route operations to and from Baltimore, Md.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Baltimore, Md.

No. MC 111231 (Sub-No. 197), filed September 19, 1975. Applicant: JONES TRUCK LINES, INC., 613 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, roofing materials, insulating products and materials* including products necessary in the installation thereof (1) between Pauline and Kansas City, Kans.; and (2) from Pauline, Kans., to points in Nebraska, Arkansas, Texas, Mississippi, Louisiana, Tennessee, and Oklahoma.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Mo.

No. MC 112304 (Sub-No. 101), filed September 12, 1975. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Reinforced fiberglass and/or plastic articles*, and related *equipment, materials, accessories and supplies*, from Berea and Medina, Ohio, to points in the United States, including Alaska but excluding Hawaii; and (2) *fabricated metal articles, reinforced fiberglass and/or plastic articles*, and related *equipment, materials, accessories and supplies*, from points in Cuyahoga and Lorain Counties, Ohio, to points in the United States, including Alaska but excluding Hawaii, restricted in (1) and (2) above to traffic originating at the plantsite and shipping facilities utilized by the Ceilcote Company and Heil Process Equipment Co., located at the above specified origin points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. or Columbus, Ohio.

No. MC 113325 (Sub-No. 141) filed September 11, 1975. Applicant: SLAY TRANSPORTATION CO., INC. 2001 South Seventh Street, St. Louis, Mo. 63104. Applicant's representative: T. M. Tahan (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from the plantsite and warehouse facilities of Economic Laboratory, Inc., located at or near Joliet, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 113362 (Sub-No. 291), filed September 8, 1975. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: John Duncan Varda, P.O. Box 2509, Madison, Wis. 53701. Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Paper and paper products, products produced or distributed by manufacturers and coverters of paper and paper products,* (1) from points in Little River County, Ark., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Virginia, West Virginia and Wisconsin; and (2) from points in Portage and Wood Counties, Wis., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill. or New Orleans, La.

No. MC 113828 (Sub-No. 231), filed September 15, 1975. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Peanut oil*, in bulk, from Suffolk, Va., to Fort Smith, Ark.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113855 (Sub-No. 326), filed September 8, 1975. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cranes, parts, attachments, and accessories* for cranes, between the plantsite and facilities of F.M.C. Corporation located at or near Bowling Green, Ky., on the one hand, and, on the other, points in the United States including Alaska but excluding Hawaii; and (2) *materials, equipment, and supplies* used in the manufacture or distribution of commodities named in (1) above, from points in the United States including Alaska but excluding Hawaii, to the facilities of F.M.C. Corporation located at or near Bowling Green, Ky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 426), filed September 18, 1975. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, fruit juices*, frozen and not frozen, and *frozen bakery goods*, (1) between Dunkirk, Brocton, and Westfield, N.Y. and North East, Pa., on the one hand, and, on the other, Lawton, Mich.; Springdale, Ark., Grandview and Kennewick, Wash.; and Anaheim, Calif.; and (2) between Lawton, Mich., Springdale, Ark., Grandview and Kennewick, Wash.; and Anaheim, Calif.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 114457 (Sub-No. 242), filed September 15, 1975. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, Suite 2108, 33 N. LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Books, book pages, and printed matter*, (1) From the plant sites and storage facilities of Rand McNally and Company at or near Versailles, Ky., to Chicago, and Skokie, Ill., and Hammond, Ind.; (2) From the plant sites and storage facilities of Rand McNally and Company at or near Chicago and Skokie, Ill., and Hammond, Ind., to Versailles, Ky.; (3) From the plant sites and storage facilities of Rand McNally and Company at or near Hammond, Ind., Taunton, Mass., and Versailles, Ky., to Muscatine, Iowa; (4) From the plant sites and storage facilities of Rand McNally and Company at or near Chicago, Ill., Hammond, Ind., and Versailles, Ky., to Taunton, Mass.; and (5) From the plant sites and storage facilities of Rand McNally and Company at or near Taunton, Mass., to Chicago and Skokie, Ill., Muscatine, Iowa and Versailles, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn. or Chicago, Ill.

No. MC 114457 (Sub-No. 243), filed September 19, 1975. Applicant: DART TRANSIT COMPANY, a corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and unfrozen meats, and frozen and unfrozen foodstuffs*, from the facilities of New Orleans Cold Storage Company at New Orleans, La., and its commercial zone, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 115311 (Sub-No. 182), filed September 18, 1975. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste paper and recyclable materials* (except liquid commodities in bulk), from points in Alabama, Florida, Mississippi, North Carolina, South Carolina, Tennessee and Virginia, to points in Georgia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Atlanta, Ga.

No. MC 115524 (Sub-No. 32), filed September 8, 1975. Applicant: BURSCH TRUCKING, INC., doing business as, ROADRUNNER TRUCKING, INC., P.O. Box 26748, 415 Rankin Road, NE., Albuquerque, N. Mex. 87215. Applicant's representative: D. F. Jones (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Roofing*, and *roofing products, supplies and equipment* (except commodities the transportation of which because of size or weight requires the use of special equipment, and except commodities in bulk, in tank vehicles) from Stroud, Okla., to points in Arizona, Colorado and New Mexico, under a continuing contract or contracts with Sagebrush Sales Company.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Albuquerque, N. Mex. or Phoenix, Ariz.

No. MC 115669 (Sub-No. 151), filed September 15, 1975. Applicant: DAHLSTEN TRUCK LINE, INC., P.O. Box 95, 101 West Edgar St., Clay Center, Nebr. 68933. Applicant's representative: Howard N. Dahlsten (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite and bentonite products*, in bulk, from the plantsites of Federal Bentonite Company, located at or near Colony and Upton, Wyo., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Texas and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or Omaha, Nebr.

No. MC 117119 (Sub-No. 550), filed September 12, 1975. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber pneumatic tires and tubes*, from the plantsite and storage facilities of Mansfield Tire and Rubber Co., Pennsylvania Tire Co., and Inland Rubber Corporation at Mansfield and Marion, Ohio, Memphis, Tenn., and Tupelo, Miss., to Denver, Colo., Phoenix and Tucson, Ariz., and points in California, Washington and Oregon.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117119 (Sub-No. 551), filed September 12, 1975. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wall coverings and equipment and supplies* used in the distribution, manufacturing and installation

thereof, from Hazleton (Hazletownship), Pa., to points in Arizona, California and Oregon.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or Philadelphia, Pa.

No. MC 117589 (Sub-No. 30), filed September 8, 1975. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, Seattle, Wash. 98108. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, 515 Lyon Building, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products, and articles distributed by meat packinghouses*, as described in Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Seattle and Tukwila, Wash., to Ontario, Oreg.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 117676 (Sub-No. 5), filed September 19, 1975. Applicant: HERMS TRUCKING INC., 58–64 Ward Avenue, Trenton, N.J. 08609. Applicant's representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal, lighter fluid, pressed fireplace logs, and sawdust*, from East Hartford, Conn.; Portland, Maine; Baltimore and Beltsville, Md.; Boston, Mass.; North Brunswick and Trenton, N.J.; Albany, Bayshore, Syracuse, New York and Buffalo, N.Y.; Raleigh and Charlotte, N.C.; Cornwells Heights, Fairless Hills, Pittsburgh and York, Pa.; and Roanoke, Norfolk and Richmond, Va., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia and the District of Columbia.

NOTE.—Applicant has contract carrier authority in MC 140806 Sub-No. 2 pending, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Trenton, N.J., or Washington, D.C.

No. MC 117686 (Sub-No. 157), filed September 15, 1975. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refined sugar*, in packages or bags, from Reserve, La., to points in Iowa, Minnesota, North Dakota, and South Dakota.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La., or Dallas, Tex.

No. MC 117940 (Sub-No. 167) (Correction), filed August 21, 1975, published in the FEDERAL REGISTER issue of September 25, 1975 as MC–11740 (Sub-No. 167), and republished as corrected this issue. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail, wholesale, and chain grocery food business houses (except commodities in bulk and frozen foods), from Biglerville and Gardners, Pa., and Inwood, W. Va., to points in Delaware, Indiana, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virgina, West Virginia and the District of Columbia.

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding. Applicant holds contract carrier authority in MC 114789 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Baltimore, Md.

No. MC 118612 (Sub-No. 8), filed Sept. 8, 1975. Applicant: B. T. SERVICE, INC., doing business as COLUMBIA TRUCKING COMPANY, 3333 Sheffield Avenue, Hammond, Ind. 46320. Applicant's representative: Richard A. Kerwin, 180 North LaSalle Street, Suite 3520, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal etching, cleaning, and finishing chemicals*, from the plantsite and warehouse and storage facilities utilized by Southern California Chemical Company, located at or near Union, Ill., and the plantsite and storage facilities utilized by C. P. Inorganics Co., located at or near Joliet, Ill., to points in Indiana, Minnesota, Ohio, Wisconsin, Michigan, Missouri, Tennessee, Texas, New Jersey, New York and Maryland; and (2) *waste, spent and recyclable chemicals*, from points in Indiana, Michigan, Missouri, Wisconsin, Minnesota, Tennessee, Ohio, Illinois, Iowa, New Jersey, New York, Connecticut, Texas, Oklahoma, Arkansas, Alabama, Kentucky and Pennsylvania, to Union, Joliet and Chicago, Ill.; Detroit, Mich.; and St. Louis, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119547 (Sub-No. 42), filed September 17, 1975. Applicant: EDGAR W. LONG, INC., Route 4, Zanesville, Ohio 43701. Applicant's representative: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay, clay products, and articles* used in the installation and distribution of clay and clay products, (except commodities in bulk), between points in Lawrence County, Ohio, on the one hand, and, on the other, points in the United States (except Alaska, Hawaii and Ohio).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Columbus, Ohio or Washington, D.C.

No. MC 119700 (Sub-No. 29), filed September 15, 1975. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, Mo. 64125. Applicant's representative: Frank W. Taylor, Jr., 1211 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, from the plantsite of National Pipe & Tube Co., located in Liberty County, Tex., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee and Wisconsin; and (2) *materials, equipment and supplies*, used in the manufacture, processing and distribution of iron and steel articles, from points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee and Wisconsin, to the plantsite of National Pipe & Tube Co., located at Liberty County, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 121060 (Sub-No. 38), filed September 12, 1975. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, Ala. 35201. Applicant's representative: William P. Jackson, Jr., 919 Eighteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials* (except in bulk), from the facilities of The Celotex Corporation, located at or near Lockland, Ohio, to points in Michigan, Indiana, Illinois and Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cincinnati, Ohio.

No. MC 123048 (Sub-No. 330), filed September 12, 1975. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, Wis. 53406. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick, brick pavers and clay tile*, from points in North Carolina and South Carolina, to points in Michigan.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Grand Rapids or Detroit, Mich.

No. MC 123407 (Sub-No. 265), filed September 15, 1975. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: Stephen H. Loeb (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural steel tubing and gear frame side and cross bars* (except commodities

which because of their size or weight require special equipment or handling), from Elkhart, Ind., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123615 (Sub-No. 6), filed September 15, 1975. Applicant: TRANSPET, INC., 700 S. Fourth Street, Harrison, N.J. 07029. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pet supplies, pet foods, pet accessories, pet tonics and insecticides*, between Bloomfield, Harrison and Jersey City, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) *material, equipment and supplies* used in the manufacture of pet supplies, pet foods, pet accessories, pet tonics and insecticides, between points in the United States (except Alaska and Hawaii), on the one hand, and, on the other, Bloomfield, Harrison and Jersey City, N.J., under a continuing contract or contracts with Hartz Mountain Corporation, or its subsidiaries.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC-124170 (Sub-No. 54), filed September 19, 1975. Applicant: FROSTWAYS, INC., 3900 Orleans, Detroit, Mich. 48207. Applicant's representative: William J. Boyde, 600 Enterprise Drive, Suite 222, Oak Brook, Ill. 60521. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grits and malt*, from points in Illinois, Indiana, and Wisconsin, to Trenton, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 128073 (Sub-No. 5), filed September 5, 1975. Applicant: BANANA SHIPPING SERVICE, INCORPORATED, P.O. Box 1345, Montgomery, Ala. 36102. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, and agricultural commodities* otherwise exempt from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from Gulfport, Miss., to points in Alabama, restricted to the transportation of traffic having an immediately prior movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 128246 (Sub-No. 8), filed September 15, 1975. Applicant: SOUTHWEST TRUCK SERVICE, P.O. Box AD, Watsonville, Calif. 95067. Applicant's representative: Roland R. Schmidt (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, 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), from the plantsite and storage facilities of Swift Fresh Meats Company, at or near Cactus, (Moore County), Tex., to points in Arizona, California, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington, under contract with Swift & Company, at Chicago, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either San Francisco, or Los Angeles, Calif.

No. MC 128273 (Sub-No. 200), filed September 10, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 S. Horton Street, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bathroom and plumbing fixtures, parts, attachments and accessories*, from Evansville and Rockport, Ind., and Henderson, Ky., to points in the United States (except Alaska, Hawaii, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee and Kentucky.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 128273 (Sub-No. 201), filed September 10, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, Kans. 66701. Applicant's representative: Harry Ross, 1403 South Horton Street, Fort Scott, Kans. 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fittings, fixtures, equipment, materials and supplies*, from Nevada, Mo., to points in Arkansas, Illinois, Louisiana, Iowa, Nevada, Wisconsin, Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon and California.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 128273 (Sub-No. 202), filed September 17, 1975. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, 121 Humboldt St., Fort Scott, Kans. 66701. Applicant's representative: John Duncan Varda, P.O. Box 2509, Madison, Wis. 53701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paper, and paper products, products produced or distributed by manufacturers and converters of paper and paper products*, (1) from points in Little River County, Ark., to points in Florida, Georgia, North Carolina, South Carolina, Virginia, and West Virginia; and (2) from points in Portage and Wood Counties, Wis., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, Tennessee and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Chicago, Ill., or New Orleans, La.

No. MC 128642 (Sub-No. 15), filed September 16, 1975. Applicant: SKYLINE TRANSPORT, INC., 1910 Russell Street, Baltimore, Md. 21230. Applicant's representative: H. Neil Garson, Court Square West Bldg., 1400 N. Uhle Street, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Maple sugar*, from Newport, Vt., to Baltimore, Md., Brundidge, Ala., and Terre Haute, Ind.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 129071 (Sub-No. 11), filed September 8, 1975. Applicant: WHITEHALL TRANSPORT, INC., P.O. Box 387, Whitehall, Wisc. 54773. Applicant's representative: William J. Boyd, 600 Enterprise Dr., Suite 222, Oak Brook, Ill. 60521. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal food* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Mankato, Minn., to Kankakee, Ill.; Columbus, Ohio; Allentown and Camp Hill, Pa., and Davenport, Iowa, under a continuing contract or contracts with Northwest By-Products, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Minneapolis, Minn., or Chicago, Ill.

No. MC 129401 (Sub-No. 4) (Correction), filed August 28, 1975, published in the FEDERAL REGISTER issue of September 25, 1975, republished as corrected this issue. Applicant: DOUGLAS & BESS, INC., Route 5, Box 238, Statesville, N.C. 28677. Applicant's representative: Theodore Polydoroff, Suite 600, 1250 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture and furniture parts*, from Statesville, N.C., to points in California; and (2) *damaged or rejected shipments of new furniture and furniture parts*, from points in California, to Statesville, N.C., under a continuing contract with Blackwelder Furniture Co.

NOTE.—The purpose of this republication is to correct the commodity description. If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C.

No. MC 129635 (Sub-No. 6), filed September 15, 1975. Applicant: ROYAL'S MOTOR SERVICE, INC., P.O. Box 1124, Grand Prairie, Tex. 75050. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dal-

las, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), each weighing 15,000 pounds or less, and *attachments, parts and accessories therefor*, when moving at the same time and in the same equipment, from Houston, Tex., to points in Colorado, Kansas, Missouri, Nebraska, Illinois, Iowa, Utah, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Dallas, Tex.

No. MC 133133 (Sub-No. 12), filed September 10, 1975. Applicant: FULLER MOTOR DELIVERY CO., a Corporation, 802 Plum Street, Cincinnati, Ohio 45202. Applicant's representative: Norbert B. Flick, 715 Executive Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in bulk, and packages, from points in the Louisville, Ky., Commercial Zone, to points in Indiana, Kentucky, and Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Cincinnati, Cleveland, or Columbus, Ohio.

No. MC 133219 (Sub-No. 13), filed September 15, 1975. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, Nebr. 68317. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Edible soybean oil, and blends thereof*, from Lincoln, Nebr., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, Illinois, Nevada, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr.

No. MC 134224 (Sub-No. 9), filed September 15, 1975. Applicant: HAUSER TRUCKING CORP., P.O. Box 241, Cobleskill, N.Y. 12043. Applicant's representative: Neil D. Breslin, 1111 Twin Towers, 99 Washington Ave., Albany, N.Y. 12210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Kentucky, Ohio, Pennsylvania, Tennessee, and West Virginia, to Schenectady, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Albany, N.Y.

No. MC 134336 (Sub-No. 8), filed September 16, 1975. Applicant: TOM BOWEN, INC., 1635 Hill Street, P.O. Box 689, Sturgis, S. Dak. 57785. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, S. Dak. 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips, sawdust, bark, shavings, and other sawmill products* (except lumber) *and additives thereto*, from points in Lawrence and Meade Counties, S. Dak., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, Wisconsin, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Spearfish, Sturgis, or Rapid City, S. Dak.

No. MC 134349 (Sub-No. 14), filed September 12, 1975. Applicant: B. L. T. CORPORATION, 405 Third Avenue, Brooklyn, N.Y. 11215. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by or used in the operation of retail department stores, between New York, N.Y., and North Bergen, N.J., on the one hand, and, on the other, points in Florida, under a continuing contract or contracts with Allied Stores Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134535 (Sub-No. 7), filed September 15, 1975. Applicant: CASALE CONTRACT CARRIERS, INC., 130 Meadow Road, P.O. Box 1393, Edison, N.J. 08817. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpet and cushioning*, from Trenton, N.J., and Fairless Hills and Philadelphia, Pa., to points in Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, under a continuing contract or contracts with General Felt Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134535 (Sub-No. 8), filed September 15, 1975. Applicant: CASALE CONTRACT CARRIERS, INC., 130 Meadow Road, P.O. Box 1393, Edison, N.J. 08817. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail sporting goods houses, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except in bulk, in tank vehicles), between Carteret, N.J., on the one hand, and, on the other, points in Maine, Vermont, New Hampshire, Rhode Island, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, under a continuing contract or contracts with Herman's World of Sporting Goods, Division of W. R. Grace & Co.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 135231 (Sub-No. 11), filed September 11, 1975. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1 Highway 1 and 59 West, Thief River Falls, Minn. 56701. Applicant's representative: Robert P. Sack, P.O. Box 6010, West, St. Paul, Minn. 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses, from St. Cloud, Minn., to Kansas City, Kans.

NOTE.—Applicant holds contract carrier authority in MC 135231 and subs thereunder, therefore dual operations, may be involved. If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 135733 (Sub-No. 3), filed August 27, 1975. Applicant: LETCO BULK CARRIERS, INC., 1751 Fuhrman Boulevard, Buffalo, N.Y. 14203. Applicant's representative: Robert D. Gunderman, Suite 710, Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Buffalo, N.Y., to points in Erie, Warren, McKean, Potter, Cameron, Elk, Forest, Venango, Crawford, Mercer, and Tioga Counties, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 136211 (Sub-No. 31), filed August 25, 1975. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: T. M. Brown, Suite 223, Ciudad Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furnishings and appliances*, from the facilities of M. Shalvitz & Sons, Inc., located at Baltimore, Md., to points in Franklin, Cumberland, Dauphin, Adams, Lebanon, Lancaster, and York Counties, Pa.; points in New Castle, Kent, and Sussex Counties, Del.; points in Fairfax, Loundon, Clarke, Frederick, Shenandoah, Page, Rappahannock, Culpeper, Orange, Spotsylvania, Carolina, Essex, Richmond, Northumberland, Westmoreland, King George, Stafford, and Prince William Counties, Va.; points in Cumberland, Gloucester, and Salem Counties, N.J.; and the District of Columbia, under contract with M. Shalvitz & Sons, Inc., restricted against the transportation of shipment to retail or commercial enterprises.

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

No. MC 136318 (Sub-No. 36), filed September 11, 1975. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, N.C. 27360. Applicant's representative: David R. Parker, 2310

Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, (1) from High Point, Marion, Morganton, and Spruce Pine, N.C., to points in Arkansas, Iowa, Minnesota, Missouri, and Oklahoma; and (2) from Mt. Airy, N.C., to points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, under a continuing contract or contracts with Henredon Furniture Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Winston-Salem or Charlotte, N.C.

No. MC 136343 (Sub-No. 53), filed September 11, 1975. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper, paper products, and woodpulp*, from the facilities of Westvaco Corporation at Luke, Biggs, and Cumberland, Md., and Piedmont, W. Va., to points in Illinois, New York, Pennsylvania, Tennessee, Indiana, Ohio, Maryland, Massachusetts, New Jersey, Kentucky, Virginia, and Michigan; and (2) *equipment, materials, and supplies* used in the manufacture and sale of paper, paper products, and woodpulp (except in bulk), from points in the destination states named in (1) above, to the facilities of Westvaco Corporation at Luke, Biggs, and Cumberland, Md., and Piedmont, W. Va., restricted to the transportation of shipments originating at the above specified origins and destined to the above specified destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136378 (Sub-No. 9), filed September 16, 1975. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, Ala. 36801. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Ala. 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *bottle carrying boxes or crates*, from points in Lee County, Ala., to points in Mississippi, Tennessee, Missouri, Kentucky, Florida, and Georgia, under a continuing contract or contracts with Edwards & McGehee.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Montgomery, Ala., or Atlanta, Ga.

No. MC 136464 (Sub-No. 13), filed September 11, 1975. Applicant: CAROLINA-WESTERN EXPRESS, INC., 650 Eastwood Drive, Gastonia, N.C. 28052. Applicant's representative: Eric Meierhoefer, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, from Greensboro, N.C., and points in its commercial zone and Asheboro, N.C., to Los Angeles, Calif. and its commercial zone, under a continuing contract or contracts with Burlington Industries, Inc.

NOTE.—Applicant holds common carrier authority in MC 138635 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Greensboro, or Charlotte, N.C.

No. MC 136513 (Sub-No. 8), filed September 15, 1975. Applicant: TALMADGE C. GRAY, P.O. Box 233, Milford, Utah 84751. Applicant's representative: Talmadge C. Gray (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal* (except shredded scrap metal): (1) from Vernon, Calif., to points in Arizona, Nevada, and Utah; and (2) between points in Arizona, Nevada, and Utah, under a continuing contract or contracts with Vulcan Materials Company, restricted in (2) above to the transportation of traffic having an immediately prior movement by rail.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif. or Las Vegas, Nev.

No. MC 136689 (Sub-No. 7), filed September 12, 1975. Applicant: SLAUGHTER TRANSPORTATION CORPORATION, 10910 Lane Street, Houston, Tex. 77029. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Bldg., Houston, Tex. 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic bottles*, in containers, from the plantsite of Sewell Plastics, Inc., at or near Reserve, La., to the plantsite of Houston Distilled Water Company, Inc., at Houston, Tex., under contract with Houston Distilled Water Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Houston, Tex. or New Orleans, La.

No. MC 136689 (Sub-No. 8), filed September 11, 1975. Applicant: SLAUGHTER TRANSPORTATION CORPORATION, 10910 Lane Street, Houston, Tex. 77029. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Bldg., Houston, Tex. 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry bread crumbs or cubes, granulated cereal, dry dip mixes, canned or preserved mushrooms in liquid, salad dressing preparations and table sauce*, in boxes, packages and other containers, from the plantsite of The Clorox Company, located at Houston, Tex., to points in Louisiana, New Mexico, and Oklahoma, under a continuing contract or contracts with The Clorox Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, Tex., or New Orleans, La.

No. MC 136888 (Sub-No. 4), filed September 11, 1975. Applicant: NORMAN & SON, INC., 2520 North 69th Street, Houston, Tex. 77020. Applicant's representative: Paul D. Angenend, P.O. Box 2207, Austin, Tex. 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cast iron billets*, in bulk, in dump trailer equipment and (2) *sorelmetal billets*, from Houston, Tex., to points in Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston or Austin, Tex.

No. MC 136987 (Sub-No. 12), filed September 15, 1975. Applicant: REMINGTON FREIGHT LINES, INC., P.O. Box 315, U.S. Highway 24 West, Remington, Ind. 47977. Applicant's representative: James Robert Evans, 145 West Wisconsin Ave., Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soya flour and soya flour products*, from Remington, Ind., to points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Griffith Food Products, a subsidiary of Griffith Laboratories, located in Chicago, Ill.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 138658 (Sub-No. 3), filed September 15, 1975. Applicant: CROSS TRANSPORTATION, INC., 100 Factory Street, Lewis, Kans. 67552. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) (1) *Hydraulic cylinders and component parts thereof*, between the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Greensburg, Kans., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraka, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin, and Provo and Nephi, Utah; (2) *raw castings*, between Camden, Tenn., Bentonville, Ark., and Dewey, Okla., on the one hand, and, on the other, the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Lewis, Hays, Pratt, Kinsley, and Greensburg, Kans., and Lamar, Colo.; (3) *steel tubes, bars and plates*, and *raw castings*, between points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, Utah, and Texas, on the one hand, and, on the other, the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Greensburg, Kans.; (4) *hydraulic cylinders, fittings, adapters, valves, pumps, and motors; hydraulic coupling equipment* and *component parts* of hydraulic cylinders, fit-

tings, adapters, valves, pumps and motors; *steel tubes, bars and plates,* and *raw castings,* between the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Greensburg, Kans., on the one hand, and, on the other, the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Lamar, Colo.

(5) *Saws, lathes, hones, automatic screw machines, drill presses,* and *welders,* and any other *machines or tools* used in the manufacture of hydraulic cylinders, fittings, adapters, valves, pumps, motors, and hydraulic coupling equipment, between the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Lewis, Hays, Pratt, Kinsley, and Greensburg, Kans., on the one hand, and, on the other, the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Lamar, Colo., and the plantsite and storage facilities of Cross Hydraulics, Inc. at or near Bay Springs, Miss.; (6) *hydraulic cylinders, fittings, adapters, valves, pumps, and motors,* and *hydraulic coupling equipment,* between the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Lewis, Hays, Pratt, Kinsley, and Greensburg, Kans., and Lamar, Colo., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin, and Provo and Nephi, Utah.

(7) *Saws, lathes, hones, automatic screw machines, drill presses, welders,* and any other *machines or tools* used in the manufacture of hydraulic cylinders, fittings, adapters, valves, pumps, motors, and hydraulic coupling equipment, between Chicago, Ill.; Minneapolis and St. Paul, Minn.; Toledo and Cincinnati, Ohio; Detroit, Mich.; and Denver, Colo., on the one hand, and, on the other, the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Lewis, Hays, Pratt, Kinsley, and Greensburg, Kans., and the plantsite and storage facilities of Cross Manufacturing, Inc. at or near Lamar, Colo., under a continuing contract or contracts in (A) above with Cross Manufacturing, Inc. of Lewis, Kans.; and (B) (1) *hydraulic cylinders, fittings, adapters, valves, pumps, and motors* and *hydraulic coupling equipment,* between the plantsite and storage facilities of Cross Hydraulics, Inc. at or near Bay Springs, Miss., on the one hand, and, on the other, points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin, and Provo and Nephi, Utah; (2) *steel tubes, bars and plates,* and *raw castings,* between points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, Utah, and Texas, on the one hand, and, on the other, the plantsite and storage facilities of Cross Hydraulics, Inc. at or near Bay Springs, Miss.; and (3) *raw castings,* between Camden, Tenn., Bentonville, Ark., and Dewey, Okla., on the one hand, and, on the other, the plantsite and storage facilities of Cross Hydraulics, Inc. at or near Bay Springs, Miss., under a continuing contract or contracts in (B) above with Cross Hydraulics, Inc. of Bay Springs, Miss.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Kansas City, Kans.

No. MC 139378 (Sub-No. 2), filed September 9, 1975. Applicant: LLOYD C. BUSBEE, P.O. Box 6344, 550 Mohawk St., Mobile, Ala. 36606. Applicant's representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, Ill. 60068. Authority sought to operate as a *common carrier,* by motor vehicle over irregular routes, transporting: *Bananas, and agricultural commodities* otherwise exempt from economic regulation under Section 203(b)(6) of the Act, when transported in mixed loads with bananas, from (1) Galveston, Tex., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, and Wisconsin; and (2) from Gulfport, Miss., to points in Alabama, Illinois, Indiana, Kentucky, Michigan, Ohio, and Wisconsin, parts (1) and (2) restricted to the transportation of traffic having an immediately prior movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New Orleans, La. or Miami, Fla.

No. MC 139405 (Sub-No. 2), filed September 2, 1975. Applicant: RON ANDREWS, doing business as RON ANDREWS TRUCKING, 3515 7th Street East, P.O. Box 142, Lewiston, Idaho 83501. Applicant's representative: Christopher J. Dietzen, 708 Old National Bank Bldg., Spokane, Wash. 99201. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Bananas,* from Long Beach, and Wilmington, Calif., to Pacific Fruit and Produce Company warehouses, at Missoula and Kalispell, Mont.; Pendleton, Oreg.; Pasco, Wash.; and Lewiston, Idaho, and (2) *unassembled furniture and products,* from the manufacturing plant of North Idaho Wood, Ltd., at Lewiston, Idaho, to points in Los Angeles, Sacramento, San Francisco, Alameda, Butte, and Glenn Counties, Calif.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boise, Idaho; Portland, Oreg.; or Seattle, Wash.

No. MC 139495 (Sub-No. 90), filed September 8, 1975. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Tires,* from Montgomeryville, Conshohocken, and Frazer, Pa., to points in Arizona, Arkansas, Illinois, Kansas, Kentucky, Louisiana, Missouri, Tennessee, and Texas.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 91), filed September 11, 1975. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Modified soda ash, cleaning compounds, bath salts, fabric softeners, and drugs* (except commodities in bulk, in tank vehicles), from Morrisville, Pa.; Rockwood, Mich.; and Niles, Ill., to Foxboro, Mass.; Huntington, W. Va.; Memphis, Tenn.; Forest Park, Ga.; Jacksonville, Orlando, Tampa, Lakeland, and Miami, Fla.; Chicago, Ill.; Kansas City, Mo.; St. Paul, Minn.; Arlington, Tex.; Denver, Colo.; Clearfield, Utah; Los Angeles and San Francisco, Calif., and Portland, Oreg.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 139926 (Sub-No. 2), filed September 11, 1975. Applicant: MILLER TRUCKING CO., INC., P.O. Drawer D, Stroud, Okla. 74079. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Fencing materials, equipment and supplies, bailing wire, concrete reinforcement wire, meshed wire, and panels and gates* for temporary livestock pens, from Kansas City, Mo., to points in Oklahoma, under a continuing contract with Creeco Mill and Elevator Company of Bristow, Okla.

NOTE.—Applicant holds common carrier authority in MC 139923 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 140484 (Sub-No. 9), filed September 19, 1975. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, Fla. 33902. Applicant's representative: Clayton Geer (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Plastic containers, and materials and supplies* used in the manufacturing of plastic containers (except commodities in bulk), between New London, Tex.,

Leominister, Mass., and Toledo, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 134443 Sub-No. 1 therefore dual operations may be involved.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 140615 (Sub-No. 6), filed September 12, 1975. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1064, Wisconsin Rapids, Wis. 54494. Applicant's representative: Dennis C. Brown (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products, dairy by-products*, and *gift paks*; (a) from Hopkinton and Luana, Iowa; Bongard, Dalbo, Rochester and Pine Island, Minn.; and points in Wisconsin, to points in Arkansas, Louisiana, Missouri, Oklahoma, Texas, and points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada; and (b) from Big Stone City, S. Dak., to Lena, Wis.; and (2) *materials, supplies, and equipment* used in the preparation, packing and sale of the commodities in (1) above, from points in the destination territory described in (1)(a) above, to Hopkinton and Luana, Iowa; Bongard, Dalbo, Rochester and Pine Island, Minn.; and points in Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Madison or Warsau, Wis.

No. MC 140768 (Sub-No. 2), filed August 13, 1975. Applicant: AMERICAN-TRANS FREIGHT, INC., P.O. Box 499, South Bould Brook, N.J. 08880. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brass, bronze, copper, pipe and tubing, brass and copper alloys, brass, bronze, copper and nickel products, and copper billets*, from Reading, Pa., to points in California, Louisiana, Michigan, Arizona, Indiana, Colorado, Texas, Illinois, the New York, N.Y., Commercial Zone, New Jersey, Nassau, Suffolk, Rockland and Orange Counties, N.Y.; and (2) *metal scrap, fire brick, and materials and supplies* (except in bulk), used in the manufacture, sale and distribution of the aforementioned commodities, from the named destination points, to Reading, Pa., under a continuing contract or contracts with Reading Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New York, N.Y.

No. MC 140829 (Sub-No. 5), filed September 12, 1975. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, Iowa 51102. Applicant's representative: William J. Hanlon, 60 Park Place, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bananas*, and (2) *bananas* when transported in mixed loads with commodities otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act, from Brownsville, Hidalgo, Laredo, McAllen, Rio Grande City, and Roma, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds motor contract carrier authority in MC 136408 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 140902 (Sub-No. 1), filed September 15, 1975. Applicant: DPD, INC., 3600 N.W. 82nd Avenue, Miami, Fla. 33166. Applicant's representative: Francis W. McInerny, 1000 Sixteenth Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture, furniture parts, and plastic shutters and equipment, materials, and supplies* used in or in connection with the manufacture and distribution of these commodities; (2) *light fixtures, lamps and shades, electric heaters, wall decors, and fireplace accessories, and equipment, materials and supplies* used in or in connection with the manufacture and distribution of these commodities; and (3) *cleaning compounds, paint and paint material, furniture polish, wax and wax remover, and sealants* moving in mixed shipments with cleaning compounds and/or paint and paint material; and *equipment, materials, and supplies* used in or in connection with the manufacture and distribution of these commodities, between points in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming, under a continuing contract or contracts with DeSoto, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Washington, D.C., or Chicago, Ill.

No. MC 141043 (Sub-No. 2), filed September 11, 1975. Applicant: A. C. CRANE SERVICE, INC., P.O. Box 576, Midlothian, Ill. 60442. Applicant's representative: Philip A. Lee, 120 West Madison Street, Suite 800, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *cryogenic tanks and vessels*, and *miscellaneous parts and accessories* thereto such as electrical controls, pumps, piping, and coiled vaporizors to be transported on specialized rigging equipment with not less than ten ton crane mounted on truck bed, between points in Illinois, Indiana, Michigan, Wisconsin, Ohio, Iowa, Missouri, Kentucky, Pennsylvania and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 141077 (Sub-No. 2), filed September 3, 1975. Applicant: DEAN JACOBSON AND JACK TANNER, a partnership, doing business as, TANNER TRUCKING, P.O. Box 53, Alexander, N. Dak. 58831. Applicant's representative: Charles M. Williams, Suite 646, Metropolitan Bldg., 1612 Court Place, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cottonseed pellets and meal*, in bulk and in bags, from the plantsite and storage facilities utilized by Pecos Valley Cotton Oil Mill, at or near Loving, N. Mex., to points in North Dakota, South Dakota, Montana and Wyoming, restricted (1) against the transportation of the above commodities in bulk in tank vehicles; and (2) to services rendered under a continuing contract or contracts with Dean Jacobson and Jack Tanner, a Partnership.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Williston, N. Dak.

No. MC 141269 filed August 27, 1975. Applicant: CHAS. R. MORGAN, INC., 18574 S. Highway 99E, Oregon City, Oreg. 97045. Applicant's representative: James A. Nelson, Pacific Bldg., 520 S. W. Yamhill Street, Portland, Oreg. 97204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1)(a) *Beer and malt liquor*, in bottles, from Pabst Brewing Company, at Los Angeles, Calif., to Portland, Oreg.; (b) *wine*, in bottles, from Browne Vintners, at San Francisco, Calif.; United Vintners, at Modesto, Calif.; Franzia Winery, at Lodi, Calif.; and Gibson Winery, at Elk Grove, Calif., to Portland, Oreg., under contract with Morgan Distributing, Incorporated, and M.C. Distributing Co.; and (2) *beer and malt liquor*, in bottles and cans, at Portland, Oreg., to distributors of Blitz-Weinhard Company, at Canoga Park, Cerritos, Colton, Compton, El Monte, Los Angeles, Rose Mead, Oxnard, San Diego, San Fernando and Santa Anna, Calif., under contract with Blitz-Weinhard Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Oreg., or Los Angeles, Calif.

No. MC 141293 (Sub-No. 1), filed September 5, 1975. Applicant: J. R. R. W. TRANSPORT, INC., RR, Iowa City, Iowa

52240. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Refined corn products* in packages and containers, and *powdered milk* when moving in the same vehicle and at the same time as refined corn products, (1) from Decatur, Ill., to Iowa City, Iowa; and (2) from Iowa City, Iowa, to points in Arkansas, Illinois, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Nebraska, Oklahoma, Tennessee, and Texas, under a continuing contract or contracts with J. M. Swank Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., Kansas City, Mo., or Omaha, Nebr.

No. MC 141295 (Sub-No. 1) (CORRECTION), filed September 2, 1975, published in the FEDERAL REGISTER issue of September 25, 1975 as MC 141301, and republished as corrected this issue. Applicant: EMIL A. JOHNSON, doing business as, CHIEF TRUCKING CO., 1767 South Redwood Street, Escondido, Calif. 92025. Applicant's representative: William J. Monheim, P.O. Box 1756, 15942 Whittier Blvd., Suite 106, Whittier, Calif. 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, from points in Gillespie County, Tex., to Escondido and Riverside, Calif., the National Quarries plantsite near San Marcos, Calif., and the Bruner Pacific Marble & Granite, Inc., plantsite near Cucamonga, Calif., under contract with Robert N. Johnson and Emil A. Johnson, doing business as, National Quarries.

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 141300, filed September 4, 1975. Applicant: SIGMAN TRANSPORTATION COMPANY, 6000 West 54th Avenue, Arvada, Colo. 80002. Applicant's representative: Edward C. Hastings, Gold Suites, 666 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *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 and *such other commodities* as are usually dealt in, or used by restaurants and supply houses, from Denver, Colo., and Jefferson and Morgan Counties, Colo., to points in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, New Mexico, Arizona and Texas; and (2) *materials, equipment and supplies*, and *such other commodities* as are used, or dealt in by persons as defined in Section 203(a) of the Interstate Commerce Act, engaged in the production and distribution of the commodities named in (1) above, from points in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, New Mexico, Arizona and Texas, to Denver, Colo., and Jefferson and Morgan Counties, Colo., under a continuing contract with Sigman Meat Company, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 141314 (Sub-No. 2), filed September 11, 1975. Applicant: SOMERSIDE EXPRESS, INC., 210 S. Horseshoe Drive, Somerset, Ky. 42501. Applicant's representative: R. H. Kinker, 711 McClure Bldg., Box 464, Frankfort, Ky. 40601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Unupholstered furniture, furniture parts, and furniture hardware*, from the plant and warehouse facilities of Karel of Cumberland, Inc., and Cumberland Wood and Chair Corporation, at or near Somerset, Ky., to Los Angeles, Calif., under contract with Karel of Cumberland, Inc., and Cumberland Wood and Chair Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky.

No. MC 141316, filed September 8, 1975. Applicant: A & A TRUCKING, INC., Box 68, Shelby, Nebr. 68662. Applicant's representative: Charles J. Kimball, 646 Metropolitan Bldg., 1612 Court Place, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from points in Reno County, Kans., to points in Nebraska, under a continuing contract with A & A Trucking, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr.

No. MC 141322 (Sub-No. 1), filed September 12, 1975. Applicant: MONTGOMERY X-RAY TRANSPORTATION, INC., 13310 Dove Street, Silver Spring, Md. 20904. Applicant's representative: Gerald K. Gimmel, 303 N. Frederick Avenue, Gaithersburg, Md. 20760. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *X-Ray scanning machines*, and *parts, materials and supplies* therefor, when moving with X-Ray scanning machines (except in bulk), in specially designed X-Ray scanning machine vehicles, from the plantsite and storage facilities of Pfizer Medical Systems, Inc. located in Montgomery County, Md., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* necessary for the manufacture and installation of X-Ray scanning machines (except in bulk), in specially designed X-Ray scanning machine vehicles, on return under a continuing contract or contracts with Pfizer Medical Systems, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 141323, filed September 12, 1975. Applicant: TRAILER MARINE TRANSPORT CORPORATION, 1045 Bond Avenue, Jacksonville, Fla. 32203. Applicant's representative: Leo C. Franey, 702 World Center Building, 918 16th Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment), between points in the Jacksonville, Fla. Commercial Zone, including Jacksonville, restricted to the transportation of traffic having a prior or subsequent movement by water.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 141333, filed September 15, 1975. Applicant: JACK CAZER, Box 367, Eaton, Colo. 80615. Applicant's representative: Charles J. Kimball, Suite 646, Metropolitan Bldg., 1612 Court Place, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Chain and related parts, materials, equipment and supplies*, from Greeley, Colo., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in part (1) above, from points in the United States (except Alaska and Hawaii), to Greeley, Colo., (1) and (2) restricted to a transportation service to be performed under a continuing contract or contracts with Noffsinger Manufacturing Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 141335, filed September 15, 1975. Applicant: BARR TRANSPORTATION CORP., 6538 Collamer Road, P.O. Box 105, East Syracuse, N.Y. 13057. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Scrap metal*, in bulk, in dump vehicles, from points in Massachusetts, Connecticut, and New Hampshire; those in Frederick and Washington Counties, Md.; those in Pennsylvania on and north of Interstate Highway 80; and those in the New York, N.Y., and Philadelphia, Pa. Commercial zones, respectively, as defined by the Commission to Auburn, N.Y.; (b) *returned and refused commodities* of the same description, in the reverse direction; (2) (a) *materials and supplies* used in the manufacture of steel billets, reinforcing bar and other merchant bar mill products, (except commodities in bulk, in tank vehicles), from the Commercial zones of New York, N.Y. and Philadelphia, Pa., as defined by the Commission, and points in Massachusetts, Pennsylvania, Ohio, West Virginia, to Auburn, N.Y.; (b) *returned and refused commodities* of the same description, in the reverse direction; and

(3) (a) *steel billets, reinforcing bar and other merchant bar mill products*, from Auburn, N.Y., to points in Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, West Virginia and the District of Columbia; (b) *returned and refused commodities* of the same description, in the reverse direction, parts (1), (2), and (3) are under a continuing contract or contracts with Auburn Steel Company, Inc., of Auburn, N.Y.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Syracuse or New York, N.Y.

No. MC 141336, filed September 15, 1975. Applicant: BUD'S MOVING & STORAGE, INC., Highway 83 South, Minot, N. Dak. 58701. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in North Dakota, restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minot, N. Dak.

No. MC 141337, filed September 15, 1975. Applicant: J. B. TRUCKING, INC., 1832 Lakehurst Drive, Olympia, Wash. 98501. Applicant's representative: John G. McLaughlin, 620 Blue Cross Bldg., 100 S. W. Market Street, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, malt beverage containers, cartons and openers, advertising materials, brewery materials, supplies and ingredients*, between Thurston County, Wash., on the one hand, and, on the other, points in Oregon, under a continuing contract or contracts with Olympia Brewing Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Olympia, or Seattle, Wash.

No. MC 141340, filed September 11, 1975. Applicant: HENDERSON TRANSFER, INC., Henderson, Nebr. 68371. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation pipe*, from Henderson, Nebr. to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment and supplies* used in the manufacturing, production and distribution of irrigation pipe (except commodities in bulk), from points in the United States (except Alaska and Hawaii) to Henderson, Nebr., restricted to a transportation service to be performed under a continuing contract or contracts with Midwest Irrigation, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Lincoln or Omaha, Nebr.

No. MC 141341, filed September 11, 1975. Applicant: GROSK PF-WEIDER TRUCKING CO., INC., 1761 Denmark Street, Sonoma, Calif. 95476. Applicant's representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission, Classes A and B explosives, automobiles, trucks, and buses, and commodities in bulk, in tank vehicles), between Sonoma, Calif., on the one hand, and, on the other, San Francisco and Oakland, Calif., restricted to traffic having an immediately prior or subsequent movement by water, under a continuing contract or contracts with Sebastiani Vineyards, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at San Francisco, Calif.

No. MC 141342, filed September 11, 1975. Applicant: KATO MOVING & STORAGE, INC., Route 1, Mankato, Minn. 56001. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and unaccompanied baggage*, between Mankato, Minn., on the one hand, and, on the other, points in Sibley, Nicollet, Brown, Watonwan, Blue Earth, Faribault, Freeborn, Waseca, Steele, Rice and LeSueur Counties, Minn., restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 141343, filed September 12, 1975. Applicant: WILLIAM H. COOKE, doing business as, WILLIAM COOKE TRUCKING, 5512 Thomas Avenue South, Minneapolis, Minn. 55410. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, between the plantsite of Schweigert Meat Company located in Minneapolis, Minn., on the one hand, and, on the other, points in Iowa, Wisconsin; Omaha, Nebr.; Sioux Falls, S. Dak.; and the Davenport, Iowa-Rock Island, Illinois Commercial Zone, restricted to traffic originating at or destined to the named points, under a continuing contract or contracts with Schweigert Meat Company.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

PASSENGER APPLICATIONS

No. MC 69623 (Sub-No. 3), filed September 10, 1975. Applicant: CENTRAL WEST MOTOR STAGES, INC., P.O. Box 66, Mundelein, Ill. 60060. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicles with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending at points in Lake, Cook, Du Page, Will, McHenry and Kane Counties, Ill., and Walworth and Kenosha Counties, Wis., and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 110060 (Sub-No. 1), filed September 17, 1975. Applicant: TRANSPORTES CHIHUAHUENSES, S.A. de C.V., 16 de Septiembre 250 OTE, Juarez Chihuahua, Mexico. Applicant's representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage, newspapers, express and mail* in the same vehicle with passengers, (1) Between the International Boundary line between the United States and the Republic of Mexico and Presidio, Tex.; From the International Boundary line between the United States and the Republic of Mexico over U.S. Highway 67 to Presidio, and return over the same routes, serving no intermediate points; and (2) between the International Boundary line between the United States and the Republic of Mexico and Columbus, N. Mex.; From the International Boundary line between the United States and the Republic of Mexico over New Mexico Highway 11 to Columbus, and return over the same routes, serving no intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at El Paso, Tex.

No. MC 136147 (Sub-No. 2), filed September 16, 1975. Applicant: COACH TRAVEL UNLIMITED, INC., 9001 West 79th Place, Justice, Ill. 60458. Applicant's representative: James R. Madler, 1255 North Sandburg Terrace, Room 1608, Chicago, Ill. 60610. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special operations, from points in Lake, Cook, DuPage, Will, Kankakee, Iroquois, Ford,

Kendall, Grundy, LaSalle, DeKalb, Boone, McHenry and Kane Counties, Ill., to points in the United States, including Alaska, but excluding Hawaii, and return.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 140826 (Sub-No. 1), filed September 10, 1975. Applicant: STEVE LARSSON HOMER, doing business as MAR/AIR BUS COMPANY, P.O. Box 344, Haines, Alaska 99827. Applicant's representative: L. B. Jacobson, P.O. Box 1211, Juneau, Alaska 99802. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, between Haines, Alaska, and the Port of entry on the International Boundary Line between the United States and Canada located at or near Pleasant Camp, Alaska: From Haines, Alaska over Alaska Highway 7 to the Port of entry located at or near Pleasant Camp, Alaska, and return over the same route, serving all intermediate points.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Haines or Juneau, Alaska.

BROKER APPLICATIONS

No. MC 130331 (Correction), filed July 14, 1975, published in the FR issue of August 14, 1975, republished as corrected this issue. Applicant: MONARCH TOURS, INC., P.O. Box 692, Manchester, Mo. 63011. Applicant's representative: Donald R. Wilson, 940 Pierre Laclede Center, 7733 Forsyth Blvd., St. Louis, Mo. 63105. Authority sought to engage in operation, in interstate or foreign comerce, as a *broker* at Manchester, Mo., to sell or offer to sell the transportation of *Passengers and their baggage*, in charter operations, in round trip, all expense tours, by motor carrier, beginning and ending at points in St. Louis, Mo., East St. Louis, Ill. Commercial Zone, St. Louis and St. Charles Counties, Mo. and extending to points in the United States, including Alaska but excluding Hawaii.

NOTE.—The purpose of this republication is to delete contract carriage from the above proceeding. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 130337, filed September 5, 1975. Applicant: KING TRAVEL SERVICE, INC., 217 East 8th Street, Topeka, Kans. 66603. Applicant's representative: Thomas L. King (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Topeka, Kans., to sell or offer to sell the transportation of *Passengers and their baggage*, in special and charter operations, in roundtrip sightseeing tours, by motor, air, water and rail carriers, beginning and ending at points in Kansas and Missouri, and extending to points in the United States including Alaska, but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Topeka or Kansas City, Kans.

No. MC 130340, filed September 12, 1975. Applicant: ARLEIGH HOOBLER AND MARY LEE HOOBLER, 716 South Street, Canadian, Tex. 79014. Applicant's representative: Arleigh Hoobler (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Canadian, Tex., to sell or offer to sell the transportation of *Passengers* as individuals and in groups, *and their baggage*, in special and charter operations, in all expense, round trip tours, by motor, air, rail and water carriers, beginning and ending at Canadian, Miami, Spearman, Pampa, Childress, Booker, Perryton, Panhandle, Wheeler, White Deer, Wellington, Higgins and Shamrock, Tex. and extending to points in the United States, including Alaska and Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Amarillo, Dallas or Fort Worth, Tex.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-27068 Filed 10-8-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

OCTOBER 6, 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 on or before October 20, 1975. 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 119777 (Sub E10), filed April 9, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Jean Holmes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel sheets, plates, channels, angles, crop ends, mine roof washers, pallets, and couplings*, which because of their size or weight require the use of special equipment; and (2) *casing, pipe and tubing*, restricted to commodities which require special equipment or special services for loading or unloading or both, and only ordinary vehicular equipment for over-the-road transportation, provided the loading or unloading, or both, which necessitates the use of special equipment is performed by the consignor or consignee, or both (except, in both (1) and (2) machinery, materials, supplies, and equipment incidental to or used in the construction, development, operation and maintenance of facilities for the discovery, development and production of natural gas and petroleum, and incidental to, or used in connection with (a) the discovery, development, production and preservation of natural gas and petroleum, (b) the construction, operation, repairs, servicing, dismantling and maintenance of pipe lines and facilities for the storage of natural gas, gasoline and petroleum, and (c) the dismantling and maintenance of plants and facilities for refining, recycling, processing, repressuring, and blending gasoline, natural gas and petroleum, and except oilfield commodities, as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 299.

(1) (A) From points in Pennsylvania on and north of a line commencing at the New York-Pennsylvania State line on U.S. Highway 15, thence south on U.S. Highway 15 to junction U.S. Highway 6, thence west on U.S. Highway 6 to junction Pennsylvania Highway 8, thence northwest on Pennsylvania Highway 8 to Erie, Pennsylvania, to points in Alabama on, south, and west of a line commencing at the Alabama-Mississippi State line on U.S. Highway 82, thence southeast on U.S. Highway 82 to junction U.S. Highway 43, thence south on U.S. Highway 43 to Mobile, Alabama; (B) from points in Pennsylvania on, north, and west of a line commencing at the Ohio-Pennsylvania State line on U.S. Highway 224, thence east on U.S. Highway 224 to junction U.S. Highway 422, thence southeast on U.S. Highway 422 to junction U.S. Highway 119, thence northeast on U.S. Highway 119 to junction U.S. Highway 219, thence north and northeast on U.S. Highway 219 to junction U.S. Highway 6, thence northeast on U.S. Highway 6 to junction Pennsylvania Highway 446, thence northeast on Pennsylvania Highway 446 to the terminus at the New York-Pennsylvania State line to points in Florida on and south of a line commencing at Pensacola, Florida, thence west on U.S. Highway 98 to the Alabama-Florida State line; (C) from points in Pennsylvania on and north of a line commencing at the New Jersey-Pennsylvania State line on U.S. Highway 1, thence southwest on U.S. Highway 1 to junction Interstate Highway 76, thence west on Interstate Highway 76 to junction Pennsylvania Highway 100, thence southeast on Pennsylvania Highway 100 to junction U.S. Highway 30, thence west on U.S. Highway 30 to junction Pennsylvania Highway 283, thence northwest on Pennsylvania Highway 283 to junction Interstate Highway 76, thence west on Interstate Highway 76 to junction U.S. Highway 30, thence west on U.S. Highway 30 to junction U.S. Highway 220, thence southwest

on U.S. Highway 220 to the Missouri-Pennsylvania State line to points in Louisiana.

(D) From points in Pennsylvania on, north and west of a line commencing at the Pennsylvania-West Virginia State line on U.S. Highway 40, thence east on U.S. Highway 40 to junction U.S. Highway 119, thence northeast on U.S. Highway 119 to the junction of Pennsylvania Highway 982, thence northeast on Pennsylvania Highway 982 to junction U.S. Highway 22, thence east on U.S. Highway 22 to junction Pennsylvania Highway 53, thence northeast on Pennsylvania Highway 53 to junction Pennsylvania Highway 36, thence east on Pennsylvania Highway 36 to junction U.S. Highway 220, thence northeast on U.S. Highway 220 to junction Pennsylvania Highway 87, thence northeast on Pennsylvania Highway 87 to junction U.S. Highway 220, thence north on U.S. Highway 220 to the Pennsylvania-New York State line to points in Mississippi; (E) from points in Pennsylvania to points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on U.S. Highway 641, thence south on U.S. Highway 641 to junction Tennessee Highway 69, thence south on Tennessee Highway 69 to junction Tennessee Highway 77, thence south on Tennessee Highway 77 to junction Tennessee Highway 22, thence south on Tennessee Highway 22 to the Tennessee-Mississippi State line; (2) (A) from points in Brooke, Hancock, and Ohio Counties, West Virginia to points in Mobile County, Alabama; (B) from points in West Virginia on, north and west of a line commencing at the West Virginia-Kentucky State line on U.S. Highway 60, thence east on U.S. Highway 60 to junction U.S. Highway 119, thence northeast on U.S. Highway 119 to the junction of U.S. Highway 19, thence north on U.S. Highway 19 to junction U.S. Highway 50, thence east on U.S. Highway 50 to the West Virginia-Maryland State line to points in Louisiana.

(C) From points in West Virginia on and north of a line commencing at the Ohio-West Virginia State line on U.S. Highway 50, thence east on U.S. Highway 50 to the junction of West Virginia Highway 47, thence southeast on West Virginia Highway 47 to junction U.S. Highway 33, thence east on U.S. Highway 33 to junction U.S. Highway 219, thence northeast on U.S. Highway 219 to the West Virginia-Maryland State line to points in Mississippi on and west of a line commencing at the Tennessee-Mississippi State line on Mississippi Highway 7, thence southwest and south on Mississippi Highway 7 to junction Mississippi Highway 9W, thence south on Mississippi Highway 9W to junction Mississippi Highway 9, thence south on Mississippi Highway 9 to junction Mississippi Highway 12, thence southwest and west on Mississippi Highway 12 to junction U.S. Highway 51, thence south on U.S. Highway 51 to the Mississippi-Louisiana State line; (D) from points in West Virginia on, north, and east of a line commencing at Parkersburg, West Virginia, thence south on West Virginia Highway 14 to junction Interstate Highway 77, thence south on Interstate Highway 77 to junction U.S. Highway 21, thence south on U.S. Highway 21 to junction U.S. Highway 60, thence southeast on U.S. Highway 60 to the Virginia-West Virginia State line to points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on Tennessee Highway 78, thence south on Tennessee Highway 78 to junction U.S. Highway 51, thence south on U.S. Highway 51 to the Mississippi-Tennessee State line. The purpose of this filing is to eliminate that part of Kentucky on and west of a line beginning at Louisville, and extending along U.S. Highway 31E to junction Kentucky Highway 61, thence along Kentucky Highway 61 to junction Kentucky Highway 470, thence along Kentucky Highway 470 to junction U.S. Highway 31E, and thence along U.S. Highway 31E to the Kentucky-Tennessee State line, and Flora, Illinois.

No. MC 119777 (Sub E36), filed April 9, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Kentucky 42431. Applicant's representative: Jean Holmes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles* (except commodities which because of size or weight require the use of special handling or equipment), from Kokomo, Indiana to points in Alabama; (2) *Iron and steel articles*, the transportation of which, because of size or weight requires, the use of special equipment, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor, consignee, or both (except oilfield commodities as described in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 299, and prefabricated buildings, and except machinery, materials, supplies and equipment incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, and incidental to, or used in connection with (a) the discovery, development, production, and preservation of natural gas and petroleum, (b) the construction, operation, repair, servicing, dismantling, and maintenance of pipe lines and facilities for the storage of natural gas, gasoline, and petroleum, and (c) the dismantling and maintenance of plants and facilities for refining, recycling, processing, repressuring, and blending gasoline, natural gas, and petroleum), (1) from points in Illinois on and north of a line commencing at the Illinois-Missouri State line on Illinois Highway 140, thence east on Illinois Highway 140 to junction U.S. Highway 40, thence northeast on U.S. Highway 40 to the junction of Illinois Highway 33, thence southeast on Illinois Highway 33 to junction Illinois Highway 130, thence south on Illinois Highway 130 to junction U.S. Highway 50, thence east on U.S. Highway 50 to the Illinois-Indiana State line to points in Alabama.

(2) From points in Indiana on and west of a line commencing at the Indiana-Ohio State line on Indiana Highway 37, thence south on Indiana Highway 37 to junction U.S. Highway 460, thence west on U.S. Highway 460 to junction Illinois Highway 545, thence south on Illinois Highway 545 to its terminus at Troy, Indiana to points in Alabama. (3) from points in Kentucky on and north of a line commencing at Owensboro, Kentucky, thence east on U.S. Highway 60 to junction Interstate Highway 64, thence north on Interstate Highway 64 to junction Interstate Highway 71, thence northeast on Interstate Highway 71 to junction Kentucky Highway 8, thence east on Kentucky Highway 8 to junction U.S. Highway 27, thence south on U.S. Highway 27 to junction Kentucky Highway 22, thence east on Kentucky Highway 22 to junction Kentucky Highway 10, thence east on Kentucky Highway 10 to junction U.S. Highway 23, thence south on U.S. Highway 23 to a terminus at Ashland, Kentucky to points in Alabama on and west of a line commencing at the Alabama-Mississippi State line on U.S. Highway 72, thence east on U.S. Highway 72 to junction Alabama Highway 17, thence south on Alabama Highway 17 to junction Alabama Highway 5, thence south on Alabama Highway 5 to junction U.S. Highway 78, thence southwest on U.S. Highway 78 to Birmingham, Alabama, thence south on U.S. Highway 31 to Montgomery, Alabama, thence south on U.S. Highway 331 to the Alabama-Florida State line; (4) from points in Ohio, (except Columbus), to points in Alabama on and west of a line commencing at the Tennessee-Alabama State line on Interstate Highway 65, thence south on Interstate Highway 65 to junction U.S. Highway 231, thence southeast on U.S. Highway 231 to the Alabama-Florida State line.

(5) From points in Pennsylvania on, north and west of a line commencing at the Pennsylvania-New York State line on [illegible] Highway 15, thence south on U.S. H[illegible]ay 15 to junction U.S. Highway 220, thence west on U.S. Highway 220 to the junction of Pennsylvania Highway 120, thence northwest on Pennsylvania Highway 120 to junction U.S. Highway 219, thence south on U.S. Highway 219 to junction U.S. Highway 119, thence southwest on U.S. Highway 119 to the Pennsylvania-West Virginia State line to points in Alabama on and west of a line commencing at the Alabama-Tennessee State line on U.S. Highway 231, thence south on U.S. Highway 231 to junction U.S. Highway 331, thence south on U.S. Highway 331 to the Alabama-Florida State line; (6) from Clarksville, Tennessee to Mobile, Alabama; and (7) from points in West Virginia on and north of U.S. Highway 40 to points in Alabama. The purpose of this filing is to eliminate the gateway of Hopkins County, Kentucky.

No. MC 119777 (Sub E99), filed April 23, 1974. Applicant: LIGON SPECIALIZED HAULER INC., P.O. Drawer L, Madisonville, Kentucky 42431. Applicant's representative: Jean Holmes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel tubing*, the transportation of which because of size or weight, requires the use of special equipment, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor, consignee, or both, (except iron and steel tubing used as a building material; encompassed in the classification of commodities described by the Commission in MERCER EXTENSION-OIL FIELD COMMODITIES 74 M.C.C. 459, 543), (A) from Shelby, Ohio to points in Illinois on and south of a line commencing at the Illinois-Iowa State line on Illinois Highway 9, thence east on Illinois Highway 9 to junction U.S. Highway 67, thence south on U.S. Highway 67 to junction U.S. Highway 136, thence east on U.S. Highway 136 to junction Illinois Highway 10, thence east on Illinois Highway 10 to junction Interstate Highway 72, thence east on Interstate Highway 72 to Champaign, Illinois, thence south on U.S. Highway 45 to the junction of Illinois Highway 133, thence east on Illinois Highway 133 to junction U.S. Highway 150, thence east on U.S. Highway 150 to the Illinois-Indiana State line. (B) from Shelby, Ohio to points in Indiana on and south of a line commencing at the Ohio-Indiana State line on Interstate Highway 74, thence northwest on Interstate Highway 74 to Indianapolis, Indiana, thence west on U.S. Highway 36 to the Indiana-Illinois State line. (C) from Shelby, Ohio to points in Arizona, and New Mexico.

(D) from Shelby, Ohio to points in Kansas, Nebraska, and Oklahoma. (E) from Shelby, Ohio to points in Missouri on and west of a line commencing at the Arkansas-Missouri State line on U.S. Highway 65, thence north on U.S. Highway 65 to junction Interstate Highway 44, thence west on Interstate Highway 44 to the junction of Missouri Highway 13, thence north on Missouri Highway 13 to junction Missouri Highway 52, thence northeast on Missouri Highway 52 to junction U.S. Highway 65, thence north on U.S. Highway 65 to junction U.S. Highway 24, thence east on U.S. Highway 24 to junction U.S. Highway 63, thence north on U.S. Highway 63 to the Missouri-Iowa State line. (2) *Iron and steel tubing*, (except iron and steel tubing used as a building material, encompassed in the classification of commodities described by the Commission in MERCER EXTENSION-OIL FIELD COMMODITIES, 74 M.C.C. 459, 543, or the transportation of which because of size or weight requires the use of special equipment), (A) from Shelby, Ohio to points in Alabama. (B) from Shelby, Ohio to points in Oklahoma on and south of a line beginning at the Oklahoma-Texas State line on U.S. Highway 66, thence east on U.S. Highway 66 to junction U.S. Highway 183, thence south on U.S. Highway 183 to junction Oklahoma Highway 9, thence east on Oklahoma Highway 9 to junction Oklahoma Highway 9A, thence northeast on Oklahoma Highway 9A to the Arkansas-Oklahoma State line. The purpose of this filing is to eliminate the gateways of Kentucky in (1)(A) & (B) above; Kentucky and Sparta and Flora, Illinois in (1)(C) above; Kentucky and Kokomo, Indiana in (1)(D) & (E) above; Hopkins County, Kentucky in (2)(A) above; and the plant site of George L. Mesker Steel Corp., in Union Co., Mississippi in (2)(B) above.

No. MC 119777 (Sub E102), filed April 23, 1974. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Jean Holmes (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, the transportation of which, because of their size or weight require the use of special equipment, restricted so that the loading and/or unloading which necessitates the special equipment is performed by the consignor or consignee, or both, from the plantsite of Geo. L. Mesker Steel Corp. located near New Albany, Miss. to points in Pennsylvania and West Virginia, restricted to the transportation of shipments originating at the above-specified plant site near New Albany, Miss. The purpose of this filing is to eliminate the gateway of that part of Kentucky on and west of a line beginning at Louisville, Ky., and extending along U.S. Highway 31E to junction Kentucky Highway 61, thence along Kentucky Highway 61 to junction Kentucky Highway 470, thence along Kentucky Highway 470 to junction U.S. Highway 31E, thence along U.S. Highway 31E to the Kentucky-Tennessee State line.

No. MC 119908 (Sub-No. E2) (CORRECTION), filed November 11, 1974, published in the FEDERAL REGISTER July 10, 1975. Applicant: WESTERN LINES, INC., P.O. Box 1145, Houston, Tex. 77001. Applicant's representative: Joe T. Briscoe (Same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, between points in Texas, on the one hand, and, on the other, points in Mississippi, Alabama, Georgia, and Tennessee. The purpose of this filing is to eliminate the gateway of points in Louisiana. The purpose of this correction is to include Georgia as a destination State.

No. MC 120737 (Sub-No. E3), filed May 14, 1974. Applicant: STAR DELIVERY & TRANSFER, INC., Route 5—Box 39, Canton, Ill. 61520. Applicant's representative: Glenn A. Werry (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (not including highway tractors for hauling freight trailers, and except tractors, the transportation of which, because of size or weight, requires the use of special equipment, regardless by whom loaded), from Chicago, Ill., to points in Alabama; Arizona; Arkansas on and south of U.S. Highway 70; California; that part of Colorado on and south of a line beginning at the Utah-Colorado State line, thence along U.S. Highway 160 to junction U.S. Highway 84, thence along U.S. Highway 84 to the New Mexico-Colorado State line; Florida; Georgia; Jeffersonville and New Albany, Ind.; Louisiana; that part of Nevada (except Tonopah) on and south of a line beginning at the California-Nevada State line, thence along U.S. Highway 50 to junction U.S. Highway 395 to junction Nevada Highway 3, thence along Nevada Highway 3 to junction Alternate U.S. Highway 95, thence along Alternate U.S. Highway 95 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction U.S. Highway 466, thence along U.S. Highway 466 to the Arizona-Nevada State line; that part of New Mexico on and south of a line beginning at the Arizona-New Mexico State line, thence along New Mexico Highway 504 to Farmington, thence along New Mexico Highway 17 to junction U.S. Highway 84, thence along U.S. Highway 84 to the Texas-New Mexico State line; North Carolina; that part of Oklahoma on and south of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 271 to Hugo, thence along U.S. Highway 70 to junction Oklahoma Highway 98, thence along Oklahoma Highway 98 to junction Oklahoma Highway 7, thence along Oklahoma Highway 7 to junction U.S. Highway 70.

Thence along U.S. Highway 70 to the Arkansas-Oklahoma State line; that part of Oregon on and south of a line beginning at junction U.S. Highway 101 and Oregon Highway 22, on the Pacific Coast, thence along Oregon Highway 22 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 395, thence along U.S. Highway 395 to New Pine Creek at the California-South Carolina State line; South Carolina; Tennessee; that part of Texas on and south of a line beginning at farwell at the New Mexico-Texas State line, thence along U.S. Highway 84 to junction U.S. Highway 380, thence along U.S. Highway 380 to junction Texas Highway 24, thence along Texas Highway 24 to Paris, thence along U.S. Highway 271 to the Oklahoma-Texas State line; Kane and Washington Counties, Utah, and that part of San Juan County, Utah, on and south of Utah Highway 95 to junction Utah Highway 47, thence along Utah Highway 47 to junction Utah Highway 262, thence along Utah Highway 262 to the Colorado-Utah State line; that part of Virginia on and south of a line beginning at the West Virginia-Virginia State line, thence along U.S. Highway 33 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 211, thence along U.S. Highway 211 to junction U.S. Highway 522, thence along U.S. Highway 522 to junction Vir-

ginia Highway 3, thence along Virginia Highway 3 to junction U.S. Highway 301, thence along U.S. Highway 301 to the Maryland-Virginia State line, including Accomack and Northampton Counties, Va.; that part of West Virginia on and south of a line beginning at the Ohio-West Virginia State line, thence along unnumbered highway to junction West Virginia Highway 17, thence along West Virginia Highway 17 to junction West Virginia Highway 34, thence along West Virginia Highway 34 to Junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 33, thence along U.S. Highway 33 to junction West Virginia Highway 5, thence along West Virginia Highway 5 to junction West Virginia Highway 4, thence along West Virginia Highway 4 to junction West Virginia Highway 20, thence along West Virginia Highway 20 to junction West Virginia Highway 15, thence along West Virginia Highway 15 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 250, thence along U.S. Highway 250 to the Virginia-West Virginia State line. RESTRICTION: The operations authorized under (1) above are restricted to traffic originating at the facilities of International Harvester Co., at Chicago, Ill. (Lynnview, Ky.)*.

(2) *Tractors* (except truck tractors and highway tractors, for hauling freight trailers), from Eau Claire, Wis., to points in that part of Connecticut on, south, and east of a line beginning at the Connecticut-New York State line, thence along U.S. Highway 44 to junction U.S. Highway 7, thence along U.S. Highway 7 to the Massachusetts-Connecticut State line; Delaware; Louisiana; Maine; that part of Maryland on, east, and south of a line beginning at the Maryland-Pennsylvania State line, thence along Maryland Highway 194 to Woodsboro, thence along Maryland Highway 550 to Libertytown, thence along Maryland Highway 75 to Hyattstown, thence along Maryland Highway 109 to Poolesville, thence along Maryland Highway 107 to the Maryland-Virginia State line; that part of Massachusetts on, south, and east of a line beginning at the Connecticut-Massachusetts State line, thence along U.S. Highway 202 to junction Massachusetts Highway 57, thence along Massachusetts Highway 57 to Agawam, thence along U.S. Highway 20 to junction Massachusetts Highway 32, thence along Massachusetts Highway 32 to the Vermont-Massachusetts State line; that part of New Hampshire on, east, and north of a line beginning at the New Hampshire-Massachusetts State line, thence along New Hampshire Highway 32 to Richmond, thence along New Hampshire Highway 119 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction New Hampshire Highway 31, thence along New Hampshire Highway 31 to Goshen, thence along New Hampshire Highway 10 to junction Interstate Highway 89, thence along Interstate Highway 89 to junction U.S. Highway 4, thence along U.S. Highway 4 to Canaan, thence along New Hampshire Highway 118 to junction New Hampshire Highway 25, thence along New Hampshire Highway 25 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction U.S. Highway 302.

Thence along U.S. Highway 302 to the Vermont-New Hampshire State line; that part of New Jersey on, east, and south of a line beginning at the New York-New Jersey State line, thence along New Jersey Highway 84 to Sussex, thence along New Jersey Highway 23 to junction Secondary New Jersey Highway 517, thence along Secondary New Jersey Highway 517 to junction U.S. Highway 206, thence along U.S. Highway 206 to Princeton, thence along New Jersey Highway 27 to junction Secondary New Jersey Highway 526, thence along Secondary New Jersey Highway 526 to junction U.S. Highway 130, thence along U.S. Highway 130 to junction New Jersey Highway 413, thence along New Jersey Highway 413 to banks of the Delaware River; that part of New York on, south, and east of a line beginning at the New Jersey-New York State line, thence along New York Highway 84 to Montgomery, thence along New York Highway 17K to junction Interstate Highway 87, thence along Interstate Highway 87 to Kingston, thence along New York Highway 199 to junction U.S. Highway 44, thence along U.S. Highway 44 to the Connecticut-New York State line; Rhode Island; Texas (except points in Kennedy, Kleberg, Nueces, San Patrico, and Regrugio, on, south, and east of a line beginning at Brownsville, thence along U.S. Highway 281 to Progresso, thence along Park Highway 88 to junction Texas Highway 186, thence along Texas Highway 186 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Texas Highway 113, thence along Texas Highway 113 to junction Texas Highway 35, thence along Texas Highway 35 to Alvin, thence along Park Highway 517 to junction Texas Highway 146, thence along Texas Highway 146 to Livingston, thence along U.S. Highway 59 to Carthage, thence along U.S. Highway 79 to the Louisiana-Texas State line); that part of Vermont on, east, and north of a line beginning at Wells River, thence along U.S. Highway 5 to St. Johnsbury, thence along U.S. Highway 2 to junction Vermont Highway 15, thence along Vermont Highway 15 to Jeffersonville, thence along Vermont Highway 108 to the United States-Canada International Boundary line; and the District of Columbia. RESTRICTION: The operations authorized in (2) above are subject to the following restrictions: Said operations are restricted to traffic originating at Eau Claire, Wis. Said operations are restricted against the transportation of commodities which, because of size or weight, require the use of special equipment. (Louisville, Ky.)*.

(3) *Tractors* (except truck tractors and highway tractors for hauling freight trailers), from West Chicago, Ill., to points in that part of Arizona on and south of a line beginning at the Nevada-Arizona State line, thence along U.S. Highway 466 to Kingman, thence along U.S. Highway 66 to Holbrook, thence along Arizona Highway 77 to Show Low, thence along Arizona Highway 173 to McNary Junction, thence along Arizona Highway 73 to junction Arizona Highway 273, thence along Arizona Highway 273 to junction U.S. Highway 666, thence along U.S. Highway 666 to Guthrie, thence along Arizona Highway 75 to Duncan, thence along U.S. Highway 70 to the New Mexico-Arizona State line; that part of Arkansas on and south of U.S. Highway 82; that part of California on and south of a line beginning at Eureka, thence along U.S. Highway 101 to junction California Highway 36, thence along California Highway 36 to Red Bluff, thence along U.S. Highway 99E to Marysville, thence along California Highway 20 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction California Highway 89, thence along California Highway 89 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-California State line; Louisiana; that part of Nevada on and south of a line beginning at the California-Nevada State line, thence along Nevada Highway 3 to junction Alternate U.S. Highway 95, thence along Alternate U.S. Highway 95 to junction U.S. Highway 466, thence along U.S. Highway 466 to the Arizona-Nevada State line; that part of New Mexico (except Deming), on and south of a line beginning at the Arizona-New Mexico State line, thence along U.S. Highway 70 to junction New Mexico Highway 11, thence along New Mexico Highway 11 to the United States-Mexico International Boundary line; that part of Texas on and south of a line beginning at McNary, thence along U.S. Highway 80 to Pecos, thence along U.S. Highway 285 to Fort Stockton, thence along U.S. Highway 67 to San Angelo, thence along U.S. Highway 87 to Brady, thence along U.S. Highway 190 to San Saba, thence along Texas Highway 16 to Goldthwaite, thence along U.S. Highway 84 to Waco, thence along Texas Highway 31 to Tyler, thence along Texas Highway 155 to Linden, thence along U.S. Highway 59 to Texarkana. RESTRICTION: The operations authorized in (3) above are restricted to the transportation of traffic originating at the facilities of International Harvester Company at West Chicago, Ill. (Louisville, Ky.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 123255 (Sub-No. E1), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from Milwaukee, Wis., to points in New Jersey, New York, Pennsylvania and Massachusetts. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E2), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from Sheboygan, Wis., to points in New Jersey, New York, Pennsylvania, and Massachusetts. The purpose of this filing is to eliminate the gateway of points in the Cleveland, Ohio, commercial zone (excluding Cleveland).

No. MC 123255 (Sub-No. E3), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from La Crosse, Wis., to points in New Jersey, New York, Pennsylvania and Massachusetts. The purpose of this filing is to eliminate the gateway of points in Cleveland, Ohio, commercial zone (except Cleveland).

No. MC 123255 (Sub-No. E4), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from Fort Wayne, Ind., to points in New Jersey, New York, Pennsylvania and Massachusetts. The purpose of this filing is to eliminate the gateway of points in Cleveland, Ohio, commercial zone (except Cleveland).

No. MC 123255 (Sub-No. E5), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* from Chicago, Ill., to points in New Jersey, New York, Pennsylvania and Massachusetts. The purpose of this filing is to eliminate the gateway of Cleveland Ohio.

No. MC 123255 (Sub-No. E6), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Peoria, Ill., to points in New Jersey, New York, Pennsylvania and Massachusetts. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E7), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverage* from Maywood, Ill., to points in New Jersey, New York, Pennsylvania and Massachusetts. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E8), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from points in New Jersey, New York, Pennsylvania and Massachusetts, to Kansas City, Kans. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E9), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from points in New Jersey, New York, Pennsylvania and Massachusetts, to points in Missouri (except St. Louis). The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E10), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and wine*, from Chicago, Ill., to points in New Jersey, New York, Pennsylvania and Massachusetts. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E11), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and wine* from Louisville, Ky., to points in Massachusetts, New Jersey, New York and Pennsylvania (except points in Fayette, Greene, Washington Counties, Pa., and except points west of the Pennsylvania Turnpike in Westmoreland County, Pa.). The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E12), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, from Chicago, Ill., to points in Massachusetts. The purpose of this filing is to eliminate the gateway of Lorain, Ohio.

No. MC 123255 (Sub-No. E13), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in containers, from Hammondsport, N.Y., to St. Louis, Mo., and points in Illinois, Indiana, and Wisconsin. The purpose of this filing is to eliminate the gateway of points in Cleveland, Ohio, commercial zone, except Cleveland.

No. MC 123255 (Sub-No. E14), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bottles, from the facilities of Mogen David Wine Corporation at Westfield, N.Y., to St. Louis, Mo., and points in Illinois, Indiana, and Wisconsin. The purpose of this filing is to eliminate the gateway of points in the Cleveland, Ohio, commercial zone (except Cleveland).

No. MC 123255 (Sub-No. E15), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Louisville, Ky., to Columbus, Ohio. The purpose of this filing is to eliminate the gateway of points in that part of Indiana east of U.S. Highway 31.

No. MC 123255 (Sub-No. E16), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Chicago, Ill., to Columbus, Ohio. The purpose of this filing is to eliminate the gateway of points in that part of Indiana east of U.S. Highway 31.

No. MC 123255 (Sub-No. E17), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from East St. Louis, Ill., to Columbus,

Ohio. The purpose of this filing is to eliminate the gateway of points in that part of Indiana east of US Highway 31.

No. MC 123255 (Sub-No. E18), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer*, from Columbus, Ohio, to points in Illinois. The purpose of this filing is to eliminate the gateway of Indianapolis, Ind.

No. MC 123255 (Sub-No. E19), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, from New York, N.Y., Philadelphia, Pa., and Baltimore, Md., to points in Indiana, Illinois, the Lower Peninsula of Michigan, St. Louis, Mo., Louisville and Covington, Ky., and Davenport, Iowa. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E21), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, from Chicago, Ill., to points in West Virginia within 10 miles of the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of that part of Indiana bounded by a line beginning at the Indiana-Ohio State line extending along U.S. Highway 224 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Ohio-Indiana State line.

No. MC 123255 (Sub-No. E22), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in that part of Indiana on and north of US Highway 50 and those in the Lower Peninsula of Michigan, to points in Kanawha County, W. Va., and those points in that part of West Virginia on and west of Interstate Highway 77. The purpose of this filing is to eliminate the gateway of Washington Court House, Ohio.

No. MC 123255 (Sub-No. E23), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Chicago, Ill., to points in Kanawah County, W. Va., and those points in West Virginia on and east of Interstate Highway 77. The purpose of this filing is to eliminate the gateway of Washington Court House, Ohio.

No. MC 123255 (Sub-No. E24), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs and canned food preparations*, from points in Illinois on and south of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 6 to Peru, thence on and east of a line beginning at Peru extending along Illinois Highway 29 to Pekin, thence on and north of a line beginning at Pekin extending along Illinois Highway 9 to the Illinois-Indiana State line, to points in Kanawah County, W. Va., and points in that part of West Virginia on and east of Interstate Highway 77. The purpose of this filing is to eliminate the gateway of Washington Court House, Ohio.

No. MC 123255 (Sub-No. E25), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from points in the Lower Peninsula of Michigan, to points in that part of Kentucky on and east of a line beginning at Maysville, Ky., extending along US Highway 68 to Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateway of Washington Court House, Ohio.

No. MC 123255 (Sub-No. E26), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor, over irregular routes, transporting: *Canned goods*, from points in that part of Michigan on and east of a line beginning at Bay City extending along U.S. Highway 23 to the Michigan-Ohio State line, to points in that part of Kentucky on and west of a line beginning at Maysville extending along U.S. Highway 68 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line, and on and east of U.S. Highway 231. The purpose of this filing is to eliminate the gateway of Washington Court House, Ohio.

No. MC 123255 (Sub-No. E27), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs and canned food preparations*, from points in Ohio on, west, and north of a line beginning at Huron extending along Ohio Highway 13 to junction U.S. Highway 224, thence along U.S. Highway 224 to Attica, thence along Ohio Highway 4 to Bucyrus, thence along U.S. Highway 30N to Lima, thence along U.S. Highway 25 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Ohio-Indiana State line, to Milwaukee, Wis. The purpose of this filing is to eliminate the gateway of Kokomo, Ind.

No. MC 123255 (Sub-No. E28), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs and canned food preparation*, from points in Ohio on, west, and north of a line beginning at Huron extending along Ohio Highway 13 to U.S. Highway 224, thence along U.S. Highway 224 to Attica, thence along Ohio Highway 4 to Bucyrus, thence along U.S. Highway 30N to Lima, thence along U.S. Highway 25 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Ohio-Indiana State line, to Wauwatosa, Wis. The purpose of this filing is to eliminate the gateway of Windfall, Ind.

No. MC 123255 (Sub-No. E29), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs and canned food preparation*, from points in Ohio on, west and north of a line beginning at Huron extending along Ohio Highway 13 to junction U.S. Highway 224, thence along U.S. Highway 224 to Attica, thence along Ohio Highway 4 to Bucyrus, thence along U.S. Highway 30N to Lima, thence along U.S. Highway 25 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Ohio-Indiana State line, to Racine, Wis. The purpose of this filing is to eliminate the gateway of Swayzee, Ind.

No. MC 123255 (Sub-No. E30), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and canned food preparations*, from points in Ohio on, west, and north

of a line beginning at Huron extending along Ohio Highway 13 to junction U.S. Highway 224, thence along U.S. Highway 224 to Attica, thence along Ohio Highway 4 to Bucyrus, thence along U.S. Highway 30N to Lima, thence along U.S. Highway 25 to junction U.S. Highway 33, thence along US Highway 33 to the Ohio-Indiana State line, to Green Bay, Stevens Point, and Wausau, Wis. The purpose of this filing is to eliminate the gateway of Lebanon, Ind.

No. MC 123255 (Sub-No. E31), filed May 31, 1974. Applicant: B & L MOTOR FRIEGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and canned food preparations*, from points in Ohio on, west, and north of a line beginning at Huron extending along Ohio Highway 13 to junction U.S. Highway 224, thence along U.S. Highway 224 to Attica, thence along Ohio Highway 4 to Bucyrus, thence along U.S. Highway 30N to Lima, thence along U.S. Highway 25 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Ohio-Indiana State line, to La Crosse, Wis. The purpose of this filing is to eliminate the gateway of Ladoga, Ind.

No. MC 123255 (Sub-No. E32), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs and canned food preparations*, from Rochelle, Mendota, and DeKalb, Ill., to points in the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateway of points in Indiana.

No. MC 123255 (Sub-No. E33), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs and canned food preparations*, from Rochelle, Mendota, and DeKalb, Ill., to Louisville, Ky. The purpose of this filing is to eliminate the gateway of points in Indiana.

No. MC 123255 (Sub-No. E34), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs and canned food preparations*, from Rochelle, Mendota, and DeKalb, Ill., to Covington, Ky. The purpose of this filing is to eliminate the gateway of points in Indiana.

No. MC 123255 (Sub-No. E35), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs and canned food preparations*, from Rochelle, Mendota, and DeKalb, Ill., to Pittsburgh, Pa. The purpose of this filing is to eliminate the gateway of points in Indiana.

No. MC 123255 (Sub-No. E36), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in cans), from Cleveland, Ohio, to points in Illinois and St. Louis, Mo. The purpose of this filing is to eliminate the gateway of points in that part of Indiana on and south of a line beginning at the Indiana-Ohio State line extending along U.S. Highway 224 to Peru, thence on and east of a line beginning at Peru extending along U.S Highway 31 to Columbus, thence on and north of a line beginning at Columbus extending along Indiana Highway 46 to the Indiana-Ohio State line.

No. MC 123255 (Sub-No. E37), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in cans), from Cleveland, Ohio, to Covington and Louisville, Ky. The purpose of this filing is to eliminate the gateway of points in that part of Indiana on and south of a line beginning at the Indiana-Ohio State line extending along U.S. Highway 224 to Peru, thence on and east of U.S. Highway 31 to Columbus, thence on and north of Indiana Highway 46 to the Indiana-Ohio State line.

No. MC 123255 (Sub-No. E38), filed May 31, 1974. Applicnt: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in cans), from Cleveland, Ohio, to Davenport, Iowa. The purpose of this filing is to eliminate the gateway of points in that part of Indiana on and south of a line beginning at the Indiana-Ohio State line extending along U.S. Highway 224 to Peru, on and east of U.S. Highway 31 to Columbus, thence on and north of Indiana Highway 46 to the Indiana-Ohio State line.

No. MC 123255 (Sub-No. E39), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese*, from Erie, Pa., to points in that part of Indiana on and south of Indiana Highway 18, and points in Illinois (except those in Cook and DuPage Counties), St. Louis, Mo., Louisville and Covington, Ky., and Davenport, Iowa. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E40), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese*, from Pittsburgh, Pa., to points in Indiana, Illinois, points in that part of the Lower Peninsula of Michigan west and north of a line beginning at the Michigan-Indiana State line extending along U.S. Highway 131 to junction Michigan Highway 21, thence along Michigan Highway 21 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction Michigan Highway 27, thence along Michigan Highway 27 to Sheboygan, and St. Louis, Mo., Louisville, and Covington, Ky., and Davenport, Iowa. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E41), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese*, from Charleston, W. Va., to points in that part of Indiana on and north and west of a line beginning at the Indiana-Ohio State line extending along Indiana Highway 44 to junction Indiana Highway 37, thence along Indiana Highway 37 to junction Indiana Highway 46, thence along Indiana Highway 46 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Illinois State line; points in that part of Illinois on, north, and west of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 40 to junction U.S. Highway 51, thence

along U.S. Highway 51 to junction Illinois Highway 161, thence along Illinois Highway 161 to the Illinois-Missouri State line; the Lower Peninsula of Michigan, St. Louis, Mo., and Davenport, Iowa. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E42), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese*, from Huntington, W. Va., to points in that part of Indiana on and north of U.S. Highway 40; points in that part of Illinois on, and north, and west of a line beginning at the Illinois-Indiana State line extending along U.S. Highway 40 to junction Illinois Highway 37, thence along Illinois Highway 37 to junction Illinois Highway 161, thence along Illinois Highway 161 to the Illinois-Missouri State line; the Lower Peninsula of Michigan, St. Louis, Mo., and Davenport, Iowa. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E43), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese*, from points in Illinois within an area bounded by a line beginning at the Illinois-Indiana State line extending along U.S. Highway 6 to Peru, thence along Illinois Highway 29 to Pekin, thence along Illinois Highway 9 to the Illinois-Indiana State line, to Erie and Pittsburgh, Pa., and Charleston and Huntington, W. Va. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E44), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese* (except in cans), from points in that part of Indiana within an area bounded by a line beginning at the Indiana-Ohio State line extending along U.S. Highway 224 to Peru, thence along U.S. Highway 31 to Franklin, thence along Indiana Highway 44 to Rushville, thence along Indiana Highway 3 to Dunreith, thence along U.S. Highway 40 to the Indiana-Ohio State line to Erie and Pittsburgh, Pa., and Charleston and Huntington, W. Va. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E45), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese*, from Chicago, Ill., to Erie and Pittsburgh, Pa., and Charleston and Huntington, W. Va. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E46), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese* (except in cans), from Vandalia, Ill., to Erie and Pittsburgh, Pa., and Charleston and Huntington, W. Va. The purpose of this filing is to eliminate the gateways of Mount Summit, Ind., and Columbus, Ohio.

No. MC 123255 (Sub-No. E47), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese* (except in cans), from Collinsville, Ill., to Erie and Pittsburgh, Pa., and Charleston and Huntington, W. Va. The purpose of this filing is to eliminate the gateways of Columbus, Ind., and Columbus, Ohio.

No. MC 123255 (Sub-No. E48), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese* (except in cans), from Millstadt and Trenton, Ill., to Erie and Pittsburgh, Pa., and Charleston and Huntington, W. Va. The purpose of this filing is to eliminate the gateway of Shirley, Ind., and Columbus, Ohio.

No. MC 123255 (Sub-No. E49), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese* (except in cans), from Detroit, Mich., and points in that part of Michigan within 10 miles of Detroit, to Charleston and Huntington, W. Va. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E50), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oleomargarine, salad dressing, lard substitute, salad oils, cooking oils, vegetable stearine, and cheese*, from Louisville, Ky., to Pittsburgh and Erie, Pa. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E51), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and food preparations* (except canned goods), from Vandalia, Ill., to points in Ohio, the Lower Peninsula of Michigan, and those points in West Virginia within 10 miles of the West Virginia-Ohio State line. The purpose of this filing is to eliminate the gateway of Mount Summit, Ind.

No. MC 123255 (Sub-No. E52), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and food preparations* (except canned goods), from Collinsville, Ill., to points in Ohio, the Lower Peninsula of Michigan, and those in West Virginia within 10 miles of the West Virginia-Ohio State line. The purpose of this filing is to eliminate the gateway of points in that part of Indiana on and south of a line beginning at the Indiana-Ohio State line extending along U.S. Highway 224 to Peru, thence along U.S. Highway 31 to Columbus, thence along Indiana Highway 46 to the Indiana-Ohio State line.

No. MC 123255 (Sub-No. E53), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Foodstuffs and food preparations* (except canned goods) from Millstadt and Trenton, Ill., to points in Ohio, the Lower Peninsula of Michigan, and those in West Virginia within 10 miles of the West Virgina-Ohio State line. The purpose of this filing is to eliminate the gateway of Mount Summit, Ind.

No. MC 123255 (Sub-No. E55), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except butter and commodities in bulk), from Champaign, Ill., to points in the Lower Peninsula of Michigan, and Monessen, Pa. The purpose of this filing is to eliminate the gateway of points in Indiana within the Chicago, Ill., commercial zone.

No. MC 123255 (Sub-No. E56), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in cans), in bulk, in tank vehicles, and in vehicles equipped with mechanical refrigeration, from the plant and storage facilities of Sunshine Biscuits, Inc., at Sayerville, N.J., to points in Illinois, St. Louis, Mo., and Davenport, Iowa. The purpose of this filing is to eliminate the gateway of points in that part of Indiana on and south of a line beginning at the Indiana-Ohio State line extending along U.S. Highway 224 to Peru, thence along U.S. Highway 31 to Columbus, thence along Indiana Highway 46 to the Indiana-Ohio State line.

No. MC 123255 (Sub-No. E57), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Seeds*, from Cincinnati and Cleveland, Ohio, to Chicago, Ill. The purpose of this filing is to eliminate the gateway of Albany, Ind.

No. MC 123255 (Sub-No. E58), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm implements and machinery* (except those requiring special equipment), from Louisville, Ky., to Chicago, Ill. The purpose of this filing is to eliminate the gateway of Albany, Ind.

No. MC 123255 (Sub-No. E59), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal kitchen cabinet parts* from Chicago, Ill., to Littlestown and Oxford, Pa. The purpose of this filing is to eliminate the gateway of Albany, Ind.

No. MC 123255 (Sub-No. E60), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* from points in Illinois and points in Iowa within 10 miles of the Illinois-Iowa State line, points in Missouri within 10 miles of the Missouri-Illinois State line, points in that part of Kentucky within 10 miles of the Kentucky-Illinois State line and in that part of Kentucky on and south of U.S. Highway 60 and U.S. Highway 460 within 10 miles of the Kentucky-Indiana State line, to Brockway and Northeast, Pa. The purpose of this filing is to eliminate the gateway of Lapel, Ind.

No. MC 123255 (Sub-No. E61), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from points in the Lower Peninsula of Michigan, points in Ohio, and points in the part of Illinois on, north, and east of a line beginning at the Illinois-Iowa State line extending along U.S. Highway 30 to junction U.S. Highway 51, thence along U.S. Highway 51 to Bloomington, thence along Illinois Highway 9 to the Illinois-Indiana State line, those points in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, and points in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa., Jeannette, Schenley, and South Connellsville, Pa., and points within 10 miles of Jeannette, Schenley, and South Connellsville, and Parkersburg and Wheeling, W. Va., to Memphis, Tenn. The purpose of this filing is to eliminate the gateway of Terre Haute, Ind.

No. MC 123255 (Sub-No. E62), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass malt beverage containers and empty glass wine containers*, from points in Indiana (except Gas City), Illinois, the Lower Peninsula of Michigan, points in Iowa within 10 miles of the Iowa-Illinois State line, points in Missouri within 10 miles of the Missouri-Illinois State line, to points in New Jersey, New York, points in that part of Pennsylvania east and north of a line beginning at the Ohio-Pennsylvania State line extending along the Pennsylvania Turnpike to junction U.S. Highway 22, thence along U.S. Highway 22 to junction U.S. Highway 220, thence along U.S. Highway 220 to the Maryland-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E63), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass malt beverage containers and empty glass wine containers*, from points in New Jersey, New York, and Pennsylvania to points in that part of Indiana on, north, and west of a line beginning at Vincennes extending along Indiana Highway 67 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 32, thence along Indiana Highway 32 to the Indiana-Ohio State line, Illinois, the Lower Peninsula of Michigan, points in Iowa within 10 miles of the Iowa-Illinois State line, and those in Missouri within 10 miles of the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E64), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass malt beverage containers and empty glass wine containers*, from points in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line and in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa., and Jeannette, Schenley, and South Connellsville, Pa., and points within 10 miles of Jeannette, Schenley, and South Connellsville, to points in Wisconsin. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E65), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers for malt and phosphated beverages, wines, cordials, and alcoholic liquors* from points in Indiana (except Gas City), Illinois, the Lower Peninsula of Michigan, that part of Iowa within 10 miles of the Iowa-Illinois State line,

that part of Missouri within 10 miles of the Missouri-Illinois State line, that part of Kentucky within 10 miles of the Kentucky-Illinois State line—Kentucky-Indiana State line—Kentucky-Ohio State line, and points in that part of West Virginia within 10 miles of the West Virginia-Ohio State line, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of points in Ohio.

No. MC 123255 (Sub-No. E66), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers for malt and phosphated beverages, wines, cordials, and alcoholic liquors* from points in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, and in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa., and Schenley, Pa., and points within 10 miles of Schenley, to points in Massachusetts. The purpose of this filing is to eliminate the gateway of points in Ohio.

No. MC 123255 (Sub-No. E67), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers for malt and phosphated beverages, wines, cordials, and alcoholic liquors* from Jeannette and South Connellsville, Pa., and points within 10 miles of South Connellsville, Pa., to points in Massachusetts. The purpose of this filing is to eliminate the gateway of points in Ohio.

No. MC 123255 (Sub-No. E68), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass containers for malt and phosphated beverages, wines, cordials, and alcoholic liquors* from points in Massachusetts, to points in Indiana, Illinois, the Lower Peninsula of Michigan, that part of Iowa within 10 miles of the Iowa-Illinois State line, that part of Missouri within 10 miles of the Missouri-Illinois State line, that part of Kentucky within 10 miles of the Kentucky-Illinois State line—the Kentucky-Indiana State line—the Kentucky-Ohio State line, that part of West Virginia within 10 miles of the West Virginia-Ohio State line, and that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, and in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa. The purpose of this filing is to eliminate the gateway of points in Ohio.

No. MC 123255 (Sub-No. E69), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty malt beverage and wine containers* from points in New Jersey, New York, and Pennsylvania, to Milwaukee, Wis., and Chicago and Maywood, Ill. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E70), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty malt beverage containers* from points in Massachusetts to St. Louis, Mo. The purpose of this filing is to eliminate the gateway of Columbus, Ohio.

No. MC 123255 (Sub-No. E71), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty malt beverage containers and kegs* from points in Massachusetts, to Milwaukee, Wis., and Chicago and Maywood, Ill. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E72), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty glass beverage containers* from points in Indiana on and east of a line beginning at the Indiana-Michigan State line extending along Indiana Highway 3 to Fort Wayne, thence along Indiana Highway 1 to junction Indiana Highway 26, thence along Indiana Highway 26 to Hartford City, thence along Indiana Highway 3 to Rushville, thence along U.S. Highway 52 to junction Indiana Highway 229, thence along Indiana Highway 229 to junction Indiana Highway 48, thence along Indiana Highway 48 to Lawrenceburg, Ind., to Milwaukee, Wis. The purpose of this filing is to eliminate the gateway of points in Ohio.

No. MC 123255 (Sub-No. E73), filed may 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Detroit, Mich., and points in that part of Michigan within 10 miles af Detroit, to Jeannette, Schenley, and South Connellsville, Pa., and points within 10 miles thereof, points in Brooke, Hancock, and Ohio Counties, W. Va., and that part of West Virginia within 10 miles of the West Virginia-Ohio State line on and east of West Virginia Highway 24, and points in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, and points in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa. The purpose of this filing is to eliminate the gateway of Cleveland, Ohio.

No. MC 123255 (Sub-No. E74), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool roofing materials*, from Waukegan, Ill., to Cleveland, Canton, and Columbus, Ohio. The purpose of this filing is to eliminate the gateway of Alexandria, Ind.

No. MC 124174 (Sub-No. E45), filed June 4, 1974. Applicant: MOMSEN TRUCKING CO., P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonfrozen cracklings*, restricted to animal and poultry feed and animal and poultry feed ingredients (except in bulk, in tank vehicles): (a) from Milwaukee and Jefferson, Wis., to Spencer, Iowa, and points in Iowa within 50 miles thereof (New Prague and Minneapolis-St. Paul, Minn.)*; and (b) from Milwaukee, Green Bay, and Jefferson, Wis., to Swea City, Iowa, and points within 25 miles thereof (Fairmont, Stillwater, and St. Paul-Minneapolis, Minn.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 123255 (Sub-No. E75), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool, building, insulating, and roofing materials*, from Joliet, Ill., to Cleveland, Canton, and Columbus, Ohio. The purpose of this filing is to eliminate the gateway of Alexandria, Ind.

No. MC 123255 (Sub-No. E76), filed May 31, 1974. Applicant: B & L MOTOR FREIGHT, INC., 140 Eleventh Ave., Newark, Ohio 43055. Applicant's representative: A. Charles Tell, Suite 1800, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral wool, building, insulating, and roofing mate-*

rials, from East St. Louis, Ill., and Marseilles, Ill., to Cleveland, Canton, and Columbus, Ohio. The purpose of this filing is to eliminate the gateway of Alexandria, Ind.

No. MC 124174 (Sub-No. E42), filed June 4, 1974. Applicant: MOMSEN TRUCKING CO., P.O. Box 37490, Omaha, Nebr. 68137. Applicant's representative: Karl E. Momsen (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, chromes*, and *pieces* therefrom, and *tannery products, supplies*, and *by-products*, between points in Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Vermont, Virginia, Texas, Wisconsin, West Virginia; Buford, Ga., and New Orleans, La., on the one hand, and, on the other, points in Kansas and Missouri within 60 miles of Auburn, Nebr. The purpose of this filing is to eliminate the gateway of points in Iowa or Nebraska within 60 miles of Auburn, Nebr.

No. MC 124211 (Sub-No. E55), filed May 7, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(A) *New empty beverage containers;* (1) from points in Arizona to points in Minnesota, Wisconsin, those in Illinois on and north of Illinois Highway 9, those in Indiana on and north of Indiana Highway 26, those in Iowa on and north of Iowa Highway 2, those in North Dakota on and east of U.S. Highway 81, and those in South Dakota on and east of U.S. Highway 77; (2) from points in Utah to points in Iowa and Wisconsin, those in Illinois and Indiana on and north of U.S. Highway 36, and those in Minnesota on and east of U.S. Highway 71 and south of U.S. Highway 12; (3) from points in Washington to points in Arkansas, Indiana, Louisiana, those in Illinois on and north of U.S. Highway 36, those in Iowa north of U.S. Highway 34 and south of U.S. Highway 30, and those in Texas on and east of U.S. Highway 77 (Nebraska and St. Joseph)*; and (4) from points in Missouri to points in Montana, North Dakota, South Dakota, Wyoming, and those in California on and north of U.S. Highway 66 (Omaha, Nebr.)*; (5) from points in California to points in Iowa, Minnesota, Wisconsin, those in Illinois north of U.S. Highway 50, those in Indiana on and north of U.S. Highway 40, and those in Missouri on and east of U.S. Highway 61 (St. Joseph, Mo., and Omaha, Nebr.)*.

(B) *Empty containers;* (1) from points in Alabama to points in Montana, North Dakota, South Dakota, Wyoming, those in California on and north of a line beginning at the California-Nevada State line and extending along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to junction California Highway 41, thence along California Highway 41 to Morro Bay, those in Colorado on and north of U.S. Highway 24, those in Iowa on and west of U.S. Highway 59, those in Kansas on and north of U.S. Highway 36 and west of U.S. Highway 73, those in Minnesota on and west of U.S. Highway 71, and St. Joseph, Mo.; (2) from points in Georgia to points in Montana, North Dakota, South Dakota, Wyoming, those in California on and north of a line beginning at the California-Nevada State line and extending along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to junction California Highway 41, thence along California Highway 41 to Morro Bay, those in Colorado on and north of U.S. Highway 24, those in Iowa on and west of U.S. Highway 59, those in Kansas on and north of U.S. Highway 36 and west of U.S. Highway 73, those in Minnesota on and west of U.S. Highway 71, and St. Joseph, Mo.; (3) from points in Idaho to points in Arkansas, Illinois, Indiana, Iowa, Louisiana, Missouri, those in Kansas on and east of U.S. Highway 77, those in Minnesota on and south of U.S. Highway 14, those in Oklahoma on and east of U.S. Highway 77, those in Texas on and east of U.S. Highway 75, and those in Wisconsin on and south of U.S. Highway 16; (4) from points in Illinois (except those north of U.S. Highway 24), to points in California, Montana, North Dakota, South Dakota, Wyoming, those in Colorado on and north of U.S. Highway 24, those in Iowa on and west of U.S. Highway 59, those in Kansas on and north of U.S. Highway 36 and west of U.S. Highway 73, those in Minnesota on and west of U.S. Highway 59, and points in Atchison County, Mo.

(5) From points in Indiana to points in California, Montana, North Dakota, South Dakota, Wyoming, those in Colorado on and north of U.S. Highway 24, those in Iowa on and north of U.S. Highway 24, those in Iowa on and west of U.S. Highway 71, those in Kansas on and north of U.S. Highway 36, those in Minnesota on and west of U.S. Highway 59, and those in Missouri on and west of U.S. Highway 71 and north of U.S. Highway 36; (6) from points in Kansas, to points in Minnesota, Montana, North Dakota, South Dakota, Wisconsin, Wyoming, those in California on and north of a line beginning at the California-Nevada State line and extending along California Highway 4 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pacific Ocean, and those in Iowa on and west of U.S. Highway 59 and north of U.S. Highway 6; (7) from points in Louisiana to points in Montana, North Dakota, South Dakota, Wyoming, and those in Iowa and Minnesota on and west of U.S. Highway 71; (8) from points in Michigan to points in California, Colorado, South Dakota, those in Iowa on and west of U.S. Highway 59, those in Kansas on and west of U.S. Highway 75, and those in Oklahoma and Texas on and west of U.S. Highway 77; (9) from points in Minnesota to points in California, Colorado, Kansas, Oklahoma, Texas, and those in Missouri on and west of U.S. Highway 71; (10) from points in Mississippi, to points in Montana, North Dakota, South Dakota, Wyoming those in Colorado on and north of U.S. Highway 36, those in Iowa on and west of U.S. Highway 71, those in Kansas on and north of U.S. Highway 36 and west of U.S. Highway 73, and those in Minnesota on and west of U.S Highway 71; (11) from points in Montana to points in Arkansas, Illinois, Indiana, Iowa, Missouri, those in Kansas on and east of U.S. Highway 77, those in Oklahoma west of U.S. Highway 77, those in Texas on and west of U.S. Highway 75, and those in Wisconsin on and south of U.S. Highway 18; (12) from points in New Mexico to points in Iowa, Minnesota, Wisconsin, those in Illinois on and north of U.S. Highway 50, those in Indiana on and north of U.S. Highway 50, those in Kansas north of U.S. Highway 36 and east of U.S. Highway 77, those in Missouri on and north of U.S. Highway 36, those in North Dakota on and east of U.S. Highway 281, and those in South Dakota east of U.S. Highway 281;

(13) From points in North Dakota, to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, Oklahoma, Texas, those in California on and south of Interstate Highway 80, those in Illinois on and south of U.S. Highway 30, those in Indiana on and south of U.S. Highway 6, and those in Iowa on and south of U.S. Highway 6; (14) from points in South Dakota to points in Arkansas, California, Colorado, Illinois, Indiana, Kansas, Louisiana, Missouri, Oklahoma, and Texas; (15) from points in Tennessee to points in Montana, North Dakota, South Dakota, Wyoming, those in California on and north of a line beginning at the California-Nevada State line and extending along Interstate Highway 15 to junction California Highway 68, thence along California Highway 68 to junction California Highway 41, thence along California Highway 41 to Morro Bay, those in Colorado on and north of U.S. Highway 24, those in Iowa on and west of U.S. Highway 71, those in Kansas on and north of U.S. Highway 36, and those in Minnesota on and west of U.S. Highway 71; (16) from those points in Texas on and east of U.S. Highway 77 to points in Minnesota, Montana, North Dakota, South Dakota, Wyoming, and those in Iowa on and west of U.S. Highway 59; (17) from those points in Texas on and west of U.S. Highway 77 to points in Minnesota, North Dakota, South Dakota, Wisconsin, those in Illinois on and north of U.S. Highway 6, and points in Iowa on and north of U.S. Highway 34; (18) from points in Wisconsin to points in California, Colorado, Oklahoma, Texas, those in Kansas on and west of U.S. Highway 75, and those in Wyoming on and south of U.S. Highway 26; (19) from points in Arkansas to points in Montana, North Dakota, South Dakota, Wyoming, those in California on and north of a line beginning at the California-Nevada State

line and extending along California Highway 4 to junction Interstate Highway 80, thence along Interstate Highway 80 to the Pacific Ocean, those in Colorado on and north of U.S. Highway 24, and those in Minnesota on and west of U.S. Highway 59; and

(20) From points in Florida to points in Montana, North Dakota, South Dakota, Wyoming, those in California on and north of a line beginning at the California-Nevada State line and extending along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to junction California Highway 41, thence along California Highway 41 to Morro Bay, those in Colorado on and north of U.S. Highway 50, those in Iowa west of U.S. Highway 71, those in Kansas north of U.S. Highway 36, those in Minnesota on and west of U.S. Highway 71 and St. Joseph, Mo. (Nebraska)*, restricted against the transportation of new empty beverage containers from points in Arizona, California, Utah, and Washington, and restricted to the transportation of glass containers to points in Arkansas, Colorado, Illinois, Indiana, Iowa (except Sioux City), Kansas, Minnesota, Missouri, Montana, North Dakota, Oklahoma, South Dakota, Wisconsin, and Wyoming. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 124211 (Sub-No. E61), filed May 13, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Food products* (except in bulk), from Chicago, Ill., to those points in Nebraska on and west of U.S. Highway 281 (Grand Island, Nebr.)*; (2) food products [except (a) frozen foods, (b) meat, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses as described in Sections A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, and (c) commodities in bulk], from Chicago, Ill., to points in Arizona, California, Nevada, New Mexico, and Utah (Grand Island)*; (3) *food products* (except frozen foods, potato products, and meat and packinghouse products, and commodities in bulk), from Chicago, Ill., to points in Idaho, and those in Montana on and west of U.S. Highway 287.

(4) *Food products* (except frozen foods, dairy products, potato products, and commodities in bulk), from Chicago, Ill., to those points in Kansas on and west of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 283 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction U.S. Highway 83, thence along U.S. Highway 83 to the Kansas-Oklahoma State line; (5) *Food products* (except frozen foods and commodities in bulk), from Chicago, Ill., to those points in Oklahoma on and west of U.S. Highway 83, and those in Texas on and west of a line beginning at the Texas-New Mexico State line and extending along Texas Highway 18 to Ft. Stockton, thence along U.S. Highway 385 to junction Texas Highway 118, thence along Texas Highway 118 to the United States-Mexico International Boundary line; (6) *Food products* (except candy and confectionery, meats and packinghouse products, dairy products, frozen foods, and potato products, and commodities in bulk), from Chicago, Ill., to points in Oregon, Washington, and those in Wyoming on and west of Interstate Highway 25. The purpose of this filing is to eliminate the gateways of Grand Island and Lincoln, Nebr.

No. MC 124211 (Sub-E69), filed May 13, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Groceries and grocery store supplies* (except commodities in bulk), between Quincy, Ill., on the one hand, and, on the other, points in Nebraska (except those south of U.S. Highway 6 and east of U.S. Highway 77); and (2) *Macaroni, noodles, grain products, food products*—(except frozen foods, potato products, and meat packinghouse products), and (commodities in bulk), *Pancake and cake flour, spaghetti and vermicelli* (except commodities in bulk), between Quincy, Ill., on the one hand, and, on the other, points in Idaho, Montana, North Dakota, South Dakota, and those in Texas on, west and north of a line beginning at the Oklahoma-Texas State line, and extending along U.S. Highway 87 to junction U.S. Highway 80, thence along U.S. Highway 80 to the United States-Mexico International Boundary line; (3) *Food products*, grain products, and flour (except commodities in bulk, and frozen foods), between Quincy, Ill., on the one hand, and, on the other, those points in Oklahoma on and west of U.S. Highway 83, and those in Texas on, west, and north of a line beginning at the Oklahoma-Texas State line, and extending along U.S. Highway 87 to junction U.S. Highway 80, thence along U.S. Highway 80 to the United States-Mexico International Boundary line; (4) Food products (except frozen foods, dairy products, potato products, and commodities in bulk, between Quincy, Ill., on the one hand, and, on the other, those points in Kansas on and west of U.S. Highway 283; (5) *Foodstuffs* (except frozen foodstuffs, meat, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in DESCRIPTIONS IN MOTOR CARRIER CERTIFICATES, 61 M.C.C. 209 and 766, and commodities in bulk), between Quincy, Ill., on the one hand, and, on the other, points in Arizona, California, Nevada, New Mexico, Utah; restricted against the transportation of fresh foods from points in California; and (6) *foodstuffs* (except candy and confectionery, except meats and packinghouse products, dairy products, frozen foods, and potato products, and except commodities in bulk), from Quincy, Ill., to points in Oregon, Washington, and Wyoming. The purpose of this filing is to eliminate the gateway of Milford and Waverly, Nebraska.

No. MC 124211 (Sub-E71), filed May 13, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Groceries and grocery store supplies* (except commodities in bulk), between La Crosse, Wis., on the one hand, and, on the other, points in Scottsbluff County, Nebr., and those in Nebraska on and south of U.S. Highway 30 and west of U.S. Highway 77, and Smith Center, Kansas; (2) *Macaroni, noodles, grain products, food products* (except frozen foods, potato products, and meat and packinghouse products) (except commodities in bulk), and *Pancake and cake flour, spaghetti and vermicelli* (except commodities in bulk), between La Crosse, Wisconsin, on the one hand, and, on the other, points in Texas and those in Idaho on and south of U.S. Highway 12; (3) *Food products, grain products, and flour* (except commodities in bulk and frozen foods), between La Crosse, Wisconsin, on the one hand, and, on the other, points in Texas, and those in Oklahoma on and west of U.S. Highway 75; (4) *Food products* (except frozen foods, dairy products, potato products, and commodities in bulk), between La Crosse, Wis., on the one hand, and on the other, those points in Kansas on and west of U.S. Highway 75; (5) *Foodstuffs* (except frozen foodstuffs, meat, meat products, meat by-products, and articles distributed by meat packinghouses, and dairy products, as described in Sections A, B, and C of Appendix I to the report in DESCRIPTIONS IN MOTOR CARRIER CERTIFICATES, 61 M.C.C. 209, and 766, and commodities in bulk), between La Crosse, Wis., on the one hand, and, on the other, points in Arizona, California, Nevada, New Mexico, and Utah, restricted against the transportation of fresh foods from points in California, and, (6) *Foodstuffs* (except candy and confectionery, except meats and packinghouse products, dairy products, frozen foods, and potato products, and except commodities in bulk), from La Crosse, Wis., to points in Oregon, those in Washington on and south of U.S. Highway 2, and those in Wyoming on and south of U.S. Highway 26. The purpose of this filing is to eliminate the gateway of Milford and Waverly, Nebraska.

No. MC 124211 (Sub-No. E83), filed June 3, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (ex-

cept frozen dairy products and commodities in bulk), as described in Section B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766; (1) from points in Idaho, Montana, and Nebraska (except those east of U.S. Highway 77 and south of Interstate Highway 80), to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and the District of Columbia; (2) from those points in Nebraska east of U.S. Highway 77 and south of Interstate Highway 80, to points in Connecticut and Massachusetts; (3) from those points in Oklahoma on and west of U.S. Highway 283 to points in Connecticut and Massachusetts, those in Bergen, Essex, Hudson, and Union Counties, N.J., those in New York on and east of Interstate Highway 81, and those in Pennsylvania east of a line beginning at the New York-Pennsylvania State line and extending along Interstate Highway 81 to Scranton, thence along Interstate Highway 81E to junction Pennsylvania Highway 611, thence along Pennsylvania Highway 611 to the Pennsylvania-New Jersey State line; (4) from those points in North Dakota on and west of U.S. Highway 83, to points in Connecticut and Massachusetts, those in Bergen, Essex, Hudson, and Union Counties, N.J., and New York, N.Y.; (5) from those points in South Dakota on, west, and south of a line beginning at the North Dakota-South Dakota State line and extending along U.S. Highway 281 to junction U.S. Highway 14, thence along U.S. Highway 14 to junction U.S. Highway 77, thence along U.S. Highway 77 to the South Dakota-Nebraska State line to points in Connecticut, Massachusetts, those in Bergen, Essex, Hudson, and Union Counties, N.J., and New York, N.Y.; and (6) from those points in Texas on and west of U.S. Highway 87 and north of U.S. Highway 80 to points in Connecticut and Massachusetts, those in Bergen, Essex, Hudson, and Union Counties, N.J., those in New York on and east of Interstate Highway 81, and those in Pennsylvania north of Interstate Highway 80 and east of Interstate Highway 81. The purpose of this filing is to eliminate the gateway of Lincoln and Norfolk, Nebr.

No. MC 124211 (Sub-No. E84), filed June 3, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs* and *health aids* (except in bulk), from Chicago, Ill., to points in California (Waverly, Nebr.)*, and (2) *Drugs* and *health aids* (except in bulk), (a) from points in Nebraska to points in New Jersey and Pennsylvania, (b) from those points in Nebraska on and east of U.S. Highway 81 to points in California, and (c) from those points in Nebraska on and west of U.S. Highway 81 to points in Cook, DuPage, Kankakee, Lake, and Will Counties, Ill. (Smith Center, Kans.)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 124211 (Sub-E85), filed June 3, 1974. Applicant: HILT TRUCK LINES, INC., P.O. Box 988 D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Groceries and grocery store supplies*, except in bulk, (1) from Canton, Coal City, Joliet, Moline, and Rochelle, Ill., to points in Nebraska in south, and west of Saunders, Lancaster, and Gage Counties, Butler, Polk, Merrick, Howard, Sherman, Custer, Logan, McPherson, Arthur, Garden, Morrill, and Scottsbluff Counties, Nebr., and Smith Center, Kansas; (2) from Abilene, Emporia, and Manhattan, Kansas, to those points in Nebraska on and north of U.S. Highway 34 and on and east of U.S. Highway 77; (3) from Topeka, Kansas, to those points in Nebraska on and north of Interstate Highway 80 and west of U.S. Highway 77; and (4) from Brighton, Tipton, Vinton, Iowa, to those points in Nebraska on and west of U.S. Highway 77 and on and south of Interstate Highway 80; and, (B) *Food products* (except frozen foods, meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in DESCRIPTIONS IN MOTOR CARRIER CERTIFICATES, 61, M.C.C. 209 and 766, and commodities in bulk), (1) from Canton, Coal City, Joliet, Moline, and Rochelle, Ill., and Brighton, Tipton, and Vinton, Iowa, to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming restricted against the transportation of potato products to points in Idaho, Montana, Oregon, Washington, and Wyoming, and *confectionery and confectionery products* to points in Oregon, Washington, and Wyoming; (2) from Abilene, Emporia, Manhattan, and Topeka, Kansas, to points in North Dakota and South Dakota (except from Topeka, Kansas, to those points in South Dakota east of U.S. Highway 81); restricted against the transportation of inedible grain products to points in South Dakota; and, (3) from Abilene, Emporia, and Manhattan, Kans., to those points in the United States on and north of U.S. Highway 30 and in and east of Illinois.

No. MC 125777 (Sub-E29), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gray, Ind. 46403. Applicant's representative: J. S. Gray, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *sand*, in bulk, in dump vehicles, from points in Wisconsin (except points in Milwaukee and Kemosha Counties, Wis.), to points in Delaware, Maryland, Virginia, North Carolina, South Carolina, Florida, Georgia, New York, Vermont, Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, and that part of Tennessee on and east of Interstate Highway 24. The purpose of this filing is to eliminate the gateway of Bridgeman, Michigan.

No. MC 125777 (Sub-E65), filed June 4, 1974. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: J. S. Gray, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone, marble, granite, and gravel*, in bulk, in tank vehicles, from points in North Carolina, to points in Wisconsin, Minnesota, Iowa, South Dakota, Wyoming, Montana, Utah, North Dakota, Nebraska, and points in that part of Colorado on and west of a line beginning at the Nebraska-Colorado State line, thence along Colorado Highway 71, to U.S. Highway 350, to Interstate Highway 25 to the Colorado-New Mexico State line. The purpose of this filing is to eliminate the gateway of Champaign and Chicago, Illinois.

No. MC 126555 (Sub-No. E1), filed June 6, 1974. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 268, Rapid City, S. Dak. 57701. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant Street Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction materials, feed, salt and fertilizer*, except liquid commodities in bulk, between points in North Dakota, on the one hand, and, on the other, Rapid City, S. Dak., and points in South Dakota within 65 miles of Rapid City. The purpose of this filing is to eliminate the gateway of points in Adams County, N. Dak.

No. MC 128741 (Sub-No. E1), filed June 4, 1974. Applicant: AMERICAN TRANS-CONTINENTAL VAN LINES, INC., P.O. Box 80266, Lincoln, Nebr. 68501. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New Mexico, on the one hand, and, on the other, points in New York, Ohio, West Virginia, Pennsylvania, Virginia, and North Carolina. The purpose of this filing is to eliminate the gateways of El Reno, Okla., Joplin, Mo., and points in Indiana south of U.S. Highway 40, including Indianapolis, Ind.

No. MC-134906 (Sub E1), filed May 2, 1974. Applicant: CAPE AIR FREIGHT, INC., P.O. Box 161, Shawnee Mission, Kansas 66201. Applicant's representative: Sid Clair (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between points in Ohio, on the one hand, and, on the other, all points in Louisiana, Mississippi, Alabama, Georgia, and points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on Interstate Highway 75,

thence south on Interstate Highway 75 to Knoxville, Tennessee, thence south on U.S. Highway 129 to the Tennessee-North Carolina State line. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (2) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between all points in Ohio on the one hand, and, on the other, all points in Kentucky. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (3) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (A) between all points in Illinois on the one hand, and, on the other, all points in Louisiana, Mississippi, Alabama, and Georgia.

(B) Between points in Illinois, north and east of a line commencing at the Missouri-Illinois State line on Illinois Highway 156, thence east on Illinois Highway 156 to junction Illinois Highway 13, thence north on Illinois Highway 13 to junction U.S. Highway 460, thence east on U.S. Highway 460 to junction Illinois Highway 37 at Mount Vernon, Illinois, thence on Illinois Highway 36 to Mound City, Illinois, on the one hand, and, on the other, points in Tennessee on and east of a line commencing at South Fulton, Tennessee, thence south on U.S. Highway 45E to junction of U.S. Highway 45 to the Kentucky-Tennessee State line. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (4) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between all points in Indiana on the one hand, and, on the other, all points in Louisiana, Mississippi, Alabama, Georgia, and points in Tennessee on and west of Interstate Highway 75. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (5) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between all points in Pennsylvania, on and west of U.S. Highway 219, on the one hand, and, on the other, all points in Louisiana, Mississippi, Alabama, Georgia and Tennessee. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air.

(6) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between all points in Illinois on and north of U.S. Highway 40, on the one hand, and, on the other, all points in Kentucky. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (7) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between points in Indiana, on and north of a line beginning at the Illinois-Indiana State line on U.S. Highway 40, thence east on U.S. Highway 40 to Terre Haute, Indiana, thence east on Indiana State Highway 46 to the Ohio-Indiana State line on the one hand, and, on the other, all points in Kentucky. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (8) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (A) Between points in Missouri on the one hand, and points in Tennessee on and east of a line commencing at the Kentucky-Tennessee State line on Interstate Highway 65, thence south on Interstate Highway 65 to the Alabama-Tennessee State line. (B) Between all points in Missouri, on the one hand, and, on the other, all points in Georgia. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air.

(9) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between points in Missouri, south and west of a line commencing at St. Joseph, Missouri, thence east on U.S. Highway 36 to junction U.S. Highway 65 at Chillicothe, Missouri, thence south on U.S. Highway 65 to junction of Interstate Highway 70, thence east on Interstate Highway 70 to the Missouri-Illinois State line, on the one hand, and, on the other, all points in Indiana. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (10) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between points in Missouri on, south, and west of a line commencing at Kansas City, Missouri, thence east on U.S. Highway 40 to Columbia, Missouri, thence south on U.S. Highway 63 to the Missouri-Arkansas State line, on the one hand, and, on the other, points in Illinois within an area on, east, and north of a line commencing at Chicago, Illinois on U.S. Highway 66, thence southwest on U.S. Highway 66 to St. Louis, Missouri, thence southeast on U.S. Highway 460 to the Illinois-Indiana State line. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (11) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between points in Missouri on, west, and south of a line commencing at the Iowa-Missouri State line on U.S. Highway 63, thence south on U.S. Highway 63 to the junction of U.S. Highway 36 at Macon, Missouri, thence east on U.S. Highway 36 to the Missouri-Illinois State line at Hannibal, Missouri on the one hand, and, on the other, all points in Pennsylvania, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Maryland, Delaware, New Jersey, and the District of Columbia. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air.

(12) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (A) between points in Indiana on and south of U.S. Highway 150, on the one hand, and, on the other, all points in Pennsylvania. (B) Between points in Indiana on and south of a line commencing at the Illinois-Indiana State line on Indiana Highway 46, thence east on Indiana Highway 46 to junction Indiana State Highway 7, thence southeast of Indiana Highway 7 to the Kentucky-Indiana State line, on the one hand, and, on the other, all points in Rhode Island and Delaware. (C) Between points in Indiana on and south of Indiana Highway 26, on the one hand, and, on the other, all points in Connecticut. (D) Between points in Indiana on and south of a line commencing at the Illinois-Indiana State line on U.S. Highway 40, thence east on U.S. Highway 40 to the junction of U.S. Highway 52, thence east on U.S. Highway 52 to the Indiana-Ohio State line, on the one hand, and, on the other, all points in Vermont. (E) Between points in Indiana on and south of a line commencing at the Illinois-Indiana State line on U.S. Highway 36, thence east on U.S. Highway 36 to Indianapolis, Indiana, thence southeast on U.S. Highway 52 to the Indiana-Ohio State line, on the one hand and, on the other, all points in New Hampshire. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (13) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (A) between all points in Kentucky on the one hand, and, on the other, all points in Vermont, New Hampshire, New Jersey, Rhode Island, New York, Pennsylvania, Massachusetts, and Connecticut.

(B) Between points in Kentucky on and west of a line commencing at Ashland, Kentucky, thence south on U.S. High-

way 23 to junction U.S. Highway 60, thence west on U.S. Highway 60 to junction Kentucky Highway 7 at Grayson, Kentucky, thence southwest on Kentucky State Highway 7 to junction Kentucky Highway 30 at Salyersville, Kentucky, thence southwest on Kentucky Highway 30 to junction Interstate Highway 75 at London, Kentucky, thence south on Interstate Highway 75 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Delaware, Maryland, and District of Columbia. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (14) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (A) between points in Illinois on and south of a line commencing at Moline, Illinois on Interstate Highway 80, thence east on Interstate Highway 80 to junction U.S. Highway 30 at Joliet, Illinois, thence east on U.S. Highway 30 to the Illinois-Indiana State line on the one hand, and, on the other, points in Rhode Island. (B) Between points in Illinois, on and south of Illinois State Highway 9, on the one hand, and, on the other, all points in New Jersey. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (15) *General commodities*, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. (A) between all points in Louisiana and Mississippi on the one hand, and, on the other, points in New York, Connecticut, Rhode Island, New Hampshire, New Jersey, Massachusetts, and Vermont.

(B) Between all points in Louisiana, Mississippi, and points in Alabama on and west of a line commencing at the Alabama-Georgia State line on U.S. Highway 278, thence southwest on U.S. Highway 278 to junction Alabama State Highway 21, thence southwest on Alabama State Highway 21 to Montgomery, Alabama, thence southwest on U.S. Highway 31 to Flomaton, Alabama, on the one hand, and, on the other, all points in Maryland. (C) Between all points in Tennessee on and west of Interstate Highway 75, on the one hand, and, on the other, all points in Massachusetts and Connecticut. (D) Between points in Tennessee on and west of Interstate Highway 75, on the one hand, and, on the other, all points in Vermont. (E) Between points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line, thence south on U.S. Highway 25E to Newport, Tennessee, thence south on Interstate Highway 40 to the Tennessee-North Carolina State line, on the one hand, and, on the other, all points in New Hampshire. (F) Between points in Tennessee on and west of Interstate Highway 75, on the one hand, and, on the other, all points in Rhode Island. (G) Between points in Tennessee on and west of Interstate Highway 75, on the one hand, and, on the other, all points in New York. (H) Between all points in Georgia on and west of a line commencing at the Georgia-North Carolina State line on U.S. Highway 441, thence south on U.S. Highway 441 to Eatonton, Georgia, thence south on U.S. Highway 129 to Macon, Georgia, thence south on U.S. Highway 41 to the Georgia-Florida State line, on the one hand, and, on the other, all points in Vermont. (I) Between all points in Georgia on and west of a line beginning at the Georgia-North Carolina State line on U.S. Highway 441, thence south on U.S. Highway 441 to Eatonton, Georgia, thence south on U.S. Highway 129 to Macon, Georgia, thence south on U.S. Highway 41 to the Georgia-Florida State line, on the one hand, and, on the other, all points in Massachusetts.

(J) Between all points in Georgia on and west of a line commencing at the Georgia-Tennessee State line on U.S. Highway 41, thence south on U.S. Highway 41 to Calhoun, Georgia, thence southwest on Georgia State Highway 53 to the Alabama-Georgia State line, on the one hand, and, on the other, all points in Connecticut and Rhode Island. (K) Between all points in Georgia within an area commencing at a line at the Georgia-Tennessee State line on U.S. Highway 41, thence south on U.S. Highway 41 to Calhoun, Georgia, thence northwest on Georgia State Highway 143 to the Georgia-Alabama State line, on the one hand, and, on the other, all points in Maryland. (L) Between all points in Georgia on and west of a line commencing at the Georgia-North Carolina State line on U.S. Highway 23, thence southwest on U.S. Highway 23 to Atlanta, Georgia, thence southwest on U.S. Highway 29 to the Georgia-Alabama State line, on the one hand, and, on the other, all points in New Hampshire. (M) Between all points in Georgia on and west of a line commencing at the Georgia-Tennessee State line on U.S. Highway 41, thence south on U.S. Highway 41 to Calhoun, Georgia, thence southwest on Georgia State Highway 53 to the Alabama-Georgia State line, on the one hand, and, on the other, all points in New York. (N) Between all points in Alabama on the one hand, and, on the other, all points in New York, Connecticut, Rhode Island, New Hampshire, New Jersey, Massachusetts, and Vermont. Restriction: The operations authorized herein are restricted to the transportation of traffic having an immediately prior or subsequent movement by air. (16) *Printed Matter*, between points in Kentucky on, south, and west of a line commencing at Louisville, Kentucky, thence east on Interstate Highway 64 to junction U.S. Highway 27 at Lexington, Kentucky, thence south on U.S. Highway 27 to junction of Kentucky Highway 78 at Stanford, Kentucky, thence southwest on Kentucky Highway 78 to junction U.S. Highway 127, thence south on U.S. Highway 127 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Massachusetts and Connecticut.

(17) *Printed Matter*, between points in Kentucky on and west of a line commencing at the Indiana-Kentucky State line on U.S. Highway 421, thence south on U.S. Highway 421 to Frankfort, Kentucky, thence south on U.S. Highway 127 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in New York. (18) *Printed Matter*, (A) between points in Kentucky on and west of Interstate Highway 65, on the one hand, and, on the other, points in Virginia on and east of a line commencing at the West Virginia-Virginia State line on Virginia State Highway 39, thence southeast on Virginia Highway 39 to junction U.S. Highway 220 at Warm Springs, Virginia, thence south on U.S. Highway 220 to the Virginia-North Carolina State line, and points in North Carolina on and east and north of a line commencing at the Virginia-North Carolina State line and extending along U.S. Highway 52 to Mt. Airy, North Carolina, thence south on U.S. Highway 601 to the North Carolina-South Carolina State line. (B) Between points in Kentucky on and west of a line commencing at Louisville, Kentucky on U.S. Highway 31E, thence south on U.S. Highway 31E to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in the District of Columbia, Delaware, and Maryland. (C) Between points in Kentucky on and north of Interstate Highway 64, on the one hand, and, on the other, all points in Arkansas. (D) Between points in Kentucky on and west of Interstate Highway 75, on the one hand, and, on the other, all points in Maine. (E) Between points in Kentucky on, south, and west of a line commencing at Louisville, Kentucky on Interstate Highway 64, thence east on Interstate Highway 64 to junction U.S. Highway 127, at Frankfort, Kentucky, thence south on U.S. Highway 127 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Rhode Island.

(F) Between points in Kentucky on, south, and west of a line commencing at Louisville, Kentucky on Interstate Highway 64, thence east on Interstate Highway 64 to junction U.S. Highway 127 at Frankfort, Kentucky, thence south on U.S. Highway 127 to the Kentucky-Tennessee State line, on the one hand, and on the other, all points in New Hampshire. (G) Between points in Kentucky on, north, and west of a line commencing at the Kentucky-Indiana State line on Kentucky Highway 44, thence east on Kentucky Highway 44 to junction of Kentucky Highway 55 at Taylorsville, Kentucky, thence north on Kentucky Highway 55 to the Kentucky-Indiana State line, on the one hand, and, on the other, all points in Georgia. (H) Between points in Kentucky on and east of a line commencing at Louisville, Kentucky on Interstate Highway 65, thence

south on Interstate Highway 65 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Iowa. (I) Between points in Kentucky on and within an area bounded by a line commencing at the Indiana-Kentucky State line at Owensboro, Kentucky, thence southeast on U.S. Highway 231 to Bowling Green, Kentucky, thence north on Interstate Highway 65 to Louisville, Kentucky, thence north on to Louisville, Kentucky, on the one hand, and, on the other, all points in Indiana on, east and north of the line commencing at the Michigan-Indiana State line, thence south on U.S. Highway 31 to Indianapolis, Indiana, thence east on U.S. Highway 40 to Indiana-Ohio State line. (J) Between points in Kentucky on and west of U.S. Highway 31E, on the one hand, and, on the other, points in New Jersey. (K) Between points in Kentucky on and west of a line commencing at Louisville, Kentucky, thence south on U.S. Highway 31E to the Kentucky-Tennessee State line on the one hand, and, on the other, all points in Pennsylvania.

(L) Between points in Kentucky on and north of a line commencing at Louisville, Kentucky, thence east on Interstate Highway 64 to the Kentucky-West Virginia State line on the one hand, and, on the other, all points in Louisiana. (M) Between points in Kentucky on and within an an area bounded by a line commencing at Owensboro, Kentucky, thence southeast on U.S. Highway 231 to the junction of U.S. Highway 62, thence northeast on U.S. Highway 62 to junction Interstate Highway 65, thence north on Interstate Highway 65 to the Indiana-Kentucky State line, on the one hand, and, on the other, all points in South Carolina. (N) Between points in Kentucky on and west of Interstate Highway 65 on the one hand, and, on the other, all points in West Virginia. (O) Between points in Kentucky on and north of Interstate Highway 64 on the one hand, and, on the other, all points in Florida. (P) Between points in Kentucky on and north of Interstate Highway 64 on the one hand, and, on the other, all points in Alabama. (Q) Between points in Kentucky on, east and north of a line commencing at Louisville, Kentucky thence south on Interstate Highway 65 to Elizabethtown, Kentucky thence east on U.S. Highway 62 to junction Interstate Highway 64 thence east on Interstate Highway 64 to the Kentucky-West Virginia State line, on the one hand, and, on the other, all points in Missouri. (R) Between points in Kentucky on, south and west of a line commencing at Louisville, Kentucky on Interstate Highway 64, thence east on Interstate Highway 64 to Lexington, Kentucky, thence south on U.S. Highway 27 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Vermont.

(19) *Printed Matter*, between points in Kentucky on, south and west of a line commencing at Louisville, Kentucky, thence east on Interstate Highway 64 to junction Interstate Highway 75 at Lexington, Kentucky, thence south on Interstate Highway 75 to the Kentucky-Tennessee State line, on the one hand, and, on the other, all points in Michigan. (20) *Printed matter*, (A) between points in Tennessee on and west of Interstate Highway 65, on the one hand, and, on the other, all points in Maryland, Delaware and West Virginia. (B) Between points in Tennessee on and east of Interstate Highway 65, on the one hand, and, on the other, all points in Iowa and Wisconsin. (C) Between points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on U.S. Highway 27, thence south on U.S. Highway 27 to the Tennessee-Georgia State line, on the one hand, and, on the other, all points in Maine, Connecticut, New York, and Vermont. (D) Between points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on Tennessee State Highway 56, thence south on Tennessee Highway 56 to the Alabama-Tennessee State line, on the one hand, and, on the other, points in Ohio and Pennsylvania. (E) Between points in Tennessee on and east of Interstate Highway 65, on the one hand, and, on the other, points in Illinois on and north of a line commencing at the Missouri-Illinois State line on U.S. Highway 54, thence northeast on U.S. Highway 54 to the junction of U.S. Highway 36, thence east on U.S. Highway 36 to the Illinois-Indiana State line. (F) Between points in Tennessee on and east of U.S. Highway 127, on the one hand, and on the other, points in Missouri, on and north of Interstate Highway 70.

(G) Between points in Tennessee on and west of a line commencing at the Kentucky-Tennessee State line on Interstate Highway 75, thence south on Interstate Highway 75 to junction U.S. Highway 129 at Knoxville, Tennessee, thence south on U.S. Highway 129 to the Tennessee-North Carolina State line, on the one hand, and, on the other, all points in the Lower Peninsula of Michigan. The purpose of this filing is to eliminate the gateways of Maysville *or* Covington *or* South Shore, Kentucky, and points in Kentucky south of Kentucky Highway 80, in (1) above; Ashland, South Shore, Maysville *or* Covington, Kentucky, in (2) above; Owensboro, Paducah, Ky., points in Kentucky on and south of Kentucky Highway 80 in (3) above; Paducah, Henderson, *or* Owensboro, Kentucky, in (4) above; Parkersburg, West Virginia, in (5) above; (1) New Albany, Indiana, *or* (2) Paducah, *or* (3) Henderson, *or* (4) Owensboro *or* (5) Covington, Kentucky, in (6) above; New Albany, Indiana, *or* Paducah, Henderson, Owensboro, *or* Covington, Kentucky, in (7) above; Cairo, Illinois, Paducah, Kentucky, and Outlaw Field near Clarksville, Tennessee, in (8) above; East St. Louis, Illinois, *or* ????????????? (2) Cairo, Illinois, in (9) above; Gateway (1) East St. Louis, Illinois, *or* Gateway (2) Cairo, Illinois, in (10) above; East St. Louis, *or* Cairo, Illinois, and Covington, Kentucky, in (11) above; New Albany, Indiana, *thence* to Covington, Kentucky, in (12) above; South Shore, Kentucky, *thence* to Portsmouth, Ohio, in (13) above; New Albany, Indiana, *thence* to Covington, Kentucky, *thence* to Cincinnati, Ohio, in (14) above; South Shore, Ky., and Portsmouth, Ohio, in (15) above; Shepardsville, Ky., in (16) above; Shepardsville, Ky., in (17) above; Shepardsville, Ky., in (18) above; Shepardsville, Ky., in (19) above; and Shepardsville, Ky., in (20) above.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-27221 Filed 10-8-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

MARYLAND STATE STANDARDS

Notice of Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Assistant Regional Directors for Occupational Safety and Health (hereinafter called the Assistant Regional Director) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4), will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On July 5, 1973, notice was published in the FEDERAL REGISTER (38 FR 17834) of the approval of the Maryland plan and the adoption of Subpart O to 29 CFR Part 1952 containing the decision.

The Maryland plan provides for the adoption of Federal standards as State standards after comments and public hearing. Section 1952.210 of Subpart O sets forth the State's schedule for the adoption of Federal standards. By letter dated August 22, 1975 from Harvey A. Epstein, Commissioner, Maryland Division of Labor and Industry to David H. Rhone, Assistant Regional Director, and incorporated as part of the plan, the State submitted State standards comparable to the revisions, amendments, and corrections to 29 CFR 1910.100, 1910.116, 1910.141, 1910.165b, 1910.171, 1910.183 redesignated as §§ 1910.189, 1910.183 (new), § 1910.184 redesignated as § 191.190, § 1910.184, redesignated as §§ 1910.190, 1910.184, 1910.254, § 1910.267 (a) and (b) redesignated as § 1928.21 (a) and (b) (insertion was made in § 1910.267 referencing § 1928.21), § 1910.268 redesignated as § 1910.274, § 1910.68 (new), § 1910.269 redesignated and revised as 29 CFR 1910.275, 1910.40, 1910.67, 1910.70, 1910.93q, Part 1928 (new) and § 1928.51 through § 1928.53. These standards were promulgated after public comment requested on June 11, 1975, hearings held on July 16, 1975, and a resolution adopted by the Commissioner on July 29, 1975, pursuant to the Maryland Occupational Safety and Health Law of 1973.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards it has been determined that the State standards are identical to the Federal standards.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Assistant Regional Director, Suite 15220, Gateway Bldg., 3535 Market St., Philadelphia, Pennsylvania 19104; Office of the Commissioner, Maryland Division of Labor & Industry, 203 East Baltimore St., Baltimore, Maryland 21202, and Office of the Associate Assistant Secretary for Regional Programs, Room N-3603, 200 Constitution Ave., N.W., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2 (c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Maryland State plan as a proposed change and making the Assistant Regional Director's approval effective upon publication for the following reasons:

1. The standards are identical to the Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further public participation would be unnecessary.

This decision is effective October 9, 1975.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Philadelphia, Pennsylvania this 9th day of September, 1975.

DAVID H. RHONE,
Assistant Regional Director.

[FR Doc.75-27212 Filed 10-8-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA-201-5]

STAINLESS STEEL, ALLOY TOOL STEEL AND SILICON ELECTRICAL STEEL

Notice of Amendment of Scope of Investigation

At the request of petitioners and for other reasons, the U.S. International Trade Commission on October 3, 1975, amended the scope of its Investigation No. TA-201-5, being conducted under section 201(b) of the Trade Act of 1974, by deleting silicon electrical steel, provided for in items 608.88 and 609.07 of the Tariff Schedules of the United States (TSUS), from the scope of its investigation.

Notice of investigation and hearing was published in the FEDERAL REGISTER on August 11, 1975 (40 FR 33706).

By order of the Commission.

Issued: October 6, 1975.

KENNETH R. MASON,
Secretary.

[FR Doc.75-27105 Filed 10-8-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-21]

AMERICAN ELECTRIC POWER SERVICE CORP.

Order Accepting for Filing and Suspending Proposed Emergency Charge Increase, Instituting Proceedings, and Establishing Dates

OCTOBER 1, 1975.

On July 24, 1975, as completed on September 2, 1975, American Electric Power Service Corporation (AEP) tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company (I&M), a letter of agreement dated July 1, 1975 to the Interconnection agreement dated November 27, 1961, between I&M and Illinois Power Company, designated Indiana Rate Schedule FPC No. 23. The proposed supplement provides for an increase in the minimum charge for emergency energy from 17.5 mills per kilowatt hour to 35 mills per kilowatt hour, proposed to become effective September 1, 1975. The minimum charge would be applicable only to Emergency Transactions that are settled by cash payment rather than through the return of equivalent energy.

In support of the proposed minimum energy charge increase, AEP cites greatly increased costs of generating such energy. In addition, AEP states that the intent of Emergency Service is such that the supplying party much make every effort to provide the service when called for even if this means cancelling more economically advantageous deliveries, and that a minimum energy charge of 35 mills is desirable to avoid economic hardship to the supplier in certain Emergency Energy Transactions.

Public notice of AEP's filing was issued August 11, 1975, with comments, protests and petitions to intervene due on or before August 20, 1975. No comments, protests, or interventions have been filed.

Our review of AEP's filing and the issues raised therein indicates that the proposed changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly we shall suspend the proposed changes for five months, to become effective March 2, 1976, and establish hearing procedures to determine the justness and reasonableness of AEP's filing.

Since the justification for the minimum charge for emergency energy has not been on a cost basis but is instead intended to be at such a level so as to discourage use of emergency service except for situations which are in fact emergencies, we request that the evidence in this proceeding, including that to be filed by our Staff, give full and careful consideration to the following issues: (1) whether the consideration of factors other than cost is justified in determining the minimum charge; and (2) assuming that consideration of outside factors is justified, what is the support for an increase of the magnitude of the present proposed 100% increase?

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the increase in the minimum energy charge for Emergency Service contained in the letter of agreement filed in this docket; and that the increase be accepted for filing and suspended as hereinafter provided.

The Commission orders:

(A) Pending a hearing and a decision thereon, AEP's July 24, 1975, filing, as completed on September 2, 1975, is accepted for filing and suspended for five months, to become effective March 2, 1976, subject to refund.

(B) Pursuant to authority of the Federal Power Act, particularly Section 205 thereof, and the Commission's Rules and Regulations (18 CFR, Chapter I), a hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the increase in minimum energy charge in AEP's filed letter of agreement shall be held commencing on February 24, 1976, at 10:00 A.M., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(C) AEP shall submit direct evidence on or before October 28, 1975. On or before January 13, 1976, the Commission Staff shall serve its prepared testimony and exhibits. Prepared testimony and exhibits of intervenors shall be served on or before January 27, 1976. Any rebuttal evidence by AEP shall be served on or before February 10, 1976.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-27114 Filed 10-8-75;8:45 am]

[Rate Schedule Nos. 25, et al.]

AMERICAN PETROFINA CO. OF TEXAS AND DEVON CORP.

Rate Change Filings Pursuant to Commission's Opinion No. 699–H

OCTOBER 1, 1975.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable new gas national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 699–H, issued December 4, 1974. Pursuant to Opinion No. 699–H the rates, if accepted, will become effective as of the date of filing.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filings should on or before October 14, 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). A protest will not serve to make the protestant a party to the proceeding. Any party wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Sept. 15, 1975	American Petrofina Co. of Texas, P.O. Box 2159, Dallas, Tex. 75221.	25	El Paso Natural Gas Co.	Rocky Mountain.
Sept. 17, 1975	do	18	do	Do.
Do	do	20	do	Do.
Do	do	21	do	Do.
Do	do	22	do	Do.
Do	do	23	do	Do.
Do	do	24	do	Do.
Do	do	26	do	Do.
Sept. 22, 1975	Devon Corp., 3300 Liberty Tower, Oklahoma City, Okla. 73102.	37	Tennessee Gas Pipeline Co.	South Louisiana.

[FR Doc. 75-27126 Filed 10-8-75; 8:45 am]

[Docket No. R176-31]

ASHLAND OIL, INC.

Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

OCTOBER 1, 1975.

Respondent has filed a proposed change in rate and charge for the jurisupon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

dictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter

APPENDIX "A"

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [2]		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI76-31...	Ashland Oil, Inc.	117	[3] 12	Phillips Petroleum Co. [1]	$7,914	7-30-75	10-1-75	(4)	12.2435	13.3504	

* Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[1] Phillips resells the gas under its rate schedule No. 40 to Michigan-Wisconsin Pipe Line Co. at a rate of 17¢/M ft³.
[2] Includes a separate statement by Phillips submitted on Aug. 14, 1975, reflecting its disagreement with respect to the 0.2264 cent tax reimbursement included in the proposed rate.
[3] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable Btu adjustment and tax.
[4] Accepted as of Oct. 1, 1975, with respect to the base rate of 13.1240 cents and suspended for 1 day until Oct. 2, 1975, with respect to the 0.2264 cent tax reimbursement.

Ashland's proposed revenue-sharing rate increase is for a wellhead sale of gas to Phillips Petroleum Company from the Hugoton Field, Sherman County, Texas (Hugoton-Anadarko Area). Phillips gathers and processes the gas in its Sherman Plant and resells the residue gas under its Rate Schedule No. 4 to Michigan Wisconsin Pipe Line Company. Ashland's proposed rates does not exceed the applicable area rate but includes 0.2264¢ tax reimbursement which Phillips has protested by letter filed August 14, 1975 as not being contractually authorized. The proposed base rate of 13.1240¢ is accepted as of October 1, 1975, and the 0.2264¢ tax reimbursement portion is suspended for one day until October 2, 1975, pending resolution of the contractual issue involved.

[FR Doc.75-27127 Filed 10-8-75;8:45 am]

[Docket Nos. RI76-32 and RI76-33]

CITIES SERVICE OIL CO. ET AL.

Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

OCTOBER 1, 1975.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto [18 CFR, Chapter I], and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

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

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* [2]		Rate in effect subject to refund in docket No.
									Rate in effect	Proposed increased rate	
RI76-32...	Cities Service Oil Co.	382	13	El Paso Natural Gas Co. (New Mexico) (Permian).	$44,032	9-2-75	10-3-75	(3)	35.387	36.411	
					(3)	9-2-75		(4)	35.740	[5] 36.761	RI73-123.
RI76-33...	Chevron Oil Co., Western Division.	26	[6] 13	Transwestern Pipeline Co. (New Mexico) (Permian).		9-2-75	10-3-75	(3)			RI76-12.
	do		14	do	224,486	9-2-75		3-3-76	29.8560	55.3044	RI76-12.
		27	[6] 12	Transwestern Pipeline Co. (Texas) (Permian).		9-2-75	10-3-75	(3)			
	do		13	do	108,565	9-2-75		3-3-76	28.7396	54.8250	RI74-63.
	do	28	[6] 12	do		9-2-75	10-3-75	(3)			RI74-63.
	do		13	do	59,668	9-2-75		3-3-76	28.7396	54.8250	RI74-63.
	do	29	[6] 12	do		9-2-75	10-3-75	(3)			
	do		13	do	1,159,640	9-2-75		3-3-76	28.7396	54.8250	RI74-62.

* Unless otherwise stated, the pressure base is 14.65 lb/in²a.
[1] Increase to contract rate applicable to Government "M" No. 1 Well only.
[2] Not stated.
[3] Unless otherwise stated, the rate shown is the total rate, inclusive of any applicable British thermal unit adjustment and tax.
[4] The proposed rate increase is accepted as of Oct. 3, 1975, insofar as it does not exceed the Opinion No. 662 ceiling and is suspended until Mar. 3, 1976, insofar as it exceeds the Opinion No. 662 ceiling rate.
[5] Accepted, as of the date set forth in "Effective Date Unless Suspended" column.
[6] Supplemental agreement.

Cities Service's proposed rate increases are accepted insofar as they do not exceed the applicable area ceiling rate established in Opinion No. 662 and one of its rate increases is suspended for five months insofar as it exceeds the applicable area ceiling in Opinion No. 662.

Chevron's proposed increases exceed the applicable area ceiling in Opinion No. 662 and they are suspended for five months.

[FR Doc.75-27128 Filed 10-8-75;8:45 am]

[Docket No. CP76-87]

EL PASO NATURAL GAS CO.

Notice of Tariff Filing

SEPTEMBER 30, 1975.

Take notice that on September 17, 1975, El Paso Natural Gas Company (El Paso) filed, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, proposed changes to its FPC Gas Tariff, Original Volume No. 1, Third Revised Volume No. 2 and Original Volume No. 2A.

El Paso states the tendered tariff sheets will expand and modify the currently effective provisions relating to storage operations contained in El Paso's FPC Gas Tariff, so as to provide for the proposed permanent operation of El Paso's Rhodes Reservoir storage facility. El Paso further states that concurrent with the instant tender, El Paso filed an application for a certificate of public convenience and necessity, in order to permit El Paso to utilize Rhodes Reservoir on a permanent basis for the protection of Priority 1 and 2 requirements of its east-of-California customers and for a temporary certificate, pending receipt of said permanent certificate authorization. The modifications to El Paso's tariff provided by the tendered tariff sheets are designed to permit the permanent operation of Rhodes Reservoir, as proposed in said application, for protection of El Paso's east-of-California customers' Priority 1 and 2 requirements commencing with the 1975–76 heating season and continuing thereafter.

El Paso has requested, pursuant to section 154.51 of the Commission's Regulations, that waiver be granted of the notice and certificate requirements of Section 154.22 of said regulations and that the tendered tariff sheets be accepted for filing and permitted to become effective on a date coincident with the earlier of the date of issuance of the temporary authorization requested by the subject certificate application filed concurrently herewith or the date of issuance of the permanent certificate requested by said application.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 14, 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.75-27109 Filed 10-8-75;8:45 am]

[Docket No. CP76-89]

EL PASO NATURAL GAS CO.

Notice of Application

SEPTEMBER 30, 1975.

Take notice that on September 17, 1975, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP76-89 an application pursuant to Sections 7 (b) and (c) of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon, during the calendar year 1976 operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000, nor would the cost of any single project exceed $500,000. Applicant states that these costs would be financed initially with working funds supplemented, as necessary, by short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 17, 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 Section 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 and permission and approval for the proposed abandonment are 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.75-27110 Filed 10-8-75;8:45 am]

[Docket Nos. RP72-155 and RP75-39 (PGA 76-1)]

EL PASO NATURAL GAS CO.

Order Accepting for Filing and Suspending in Part Proposed PGA Rate Adjustment Establishing Hearing Procedures, Instituting Investigation

SEPTEMBER 30, 1975.

On August 15, 1975, El Paso Natural Gas Company (El Paso), tendered for filing two PGA adjustments, both proposed to be effective October 1, 1975. The first, a PGA rate reduction of 5.31¢ per Mcf [1] reflects (1) a 0.78¢ per Mcf ($8.9 million per year) increase in the average cost of gas, (2) a 4.65¢ reduction (from 8.87¢ to 4.22¢) in the surcharge to recoup the balance in the deferred account, and (3) the elimination of the 1.39¢ per Mcf overriding royalty surcharge authorized through September 30, 1975. The second, a PGA rate increase of 1.1663¢ per Mcf [2] reflects (1) a 1.005¢ per Mcf ($12,600 per year) decrease in the cost of high pressure gas and (2) a 2.1718¢ per Mcf increase (from 2.1422¢ to 4.3140¢) in the surcharge to recoup the balance in the deferred account.

The rate adjustment for Volume Nos. 1, 2, and 2A (Group I) is based, in part, on purchases from small producers at rates in excess of the applicable levels permitted by Opinion No. 742 and 60 and 180 day emergency purchases at rates in excess of the rate levels established by Opinion No. 699-H.

The filing was noticed, with all comments due on or before September 9, 1975. No responses have been received.

Our review of the tariff sheets for Volume Nos. 1, 2 and 2A (Group I) indicates that they contain small producer purchases in excess of the rate levels prescribed in Opinion No. 742 and 60 day and 180 day emergency purchases from other than small producers in excess of

[1] Applies to those sales under Tariff Volume Nos. 1, 2 and 2A (Group I).

[2] Applies to those sales under Tariff Volume 2A (Group II).

the rate levels prescribed in Opinion No. 699-H; therefore, the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we shall accept the tariff sheets for filing and suspend them for one day until October 2, 1975, when they shall become effective, subject to refund.

With regard to the issue of small producers, we shall establish hearing procedures to determine the just and reasonable rate levels of those small producer purchases to be included in El Paso's filing in excess of the rate levels resulting from use of the "130% formula" prescribed in Opinion No. 742.[3] In this connection, we believe it appropriate to make the small producers involved respondents so that they may present evidence to show that the rates charged by them to El Paso are just and reasonable. Although the small producers are not required to make refunds, we believe it appropriate to institute a Section 5 investigation against the small producer involved so that the just and reasonable small producer rate determined in this proceeding can be applied prospectively.

Within 15 days of the date of this order, El Paso shall file a list of the small producers making sales reflected in the instant filing in excess of the "130% formula" rates in order that they may be made respondents to this proceeding.

Cost evidence relating to the small producer sales which are the subject of the hearing ordered herein can clearly provide the basis for "just and reasonable" rate findings. *F.P.C.* v. *Texaco, Inc.*, 417 U.S. 380 (1974). Accordingly, we shall require the small producer respondents to submit cost evidence in order that we may determine the justness and reasonableness of El Paso's rates and make appropriate prospective adjustments, if found necessary, to the small producer rate pursuant to our authority under Section 5 of the Natural Gas Act.

El Paso must show that the rate paid by El Paso to the small producer is just and reasonable by presenting evidence considering all relevant factors including, *inter alia*, (1) the pipeline's need for gas, (2) the availability of other gas suppliers, (3) the amount of gas dedicated under the contract, (4) the rates of other recent small producer sales previously approved for flow through and (5) comparison with appropriate market prices.[4]

Finally, the parties may submit any other evidence relevant to the Commission's determination of whether the rates paid by the pipeline with respect to the subject small producer sales are just and reasonable.

With regard to the 60-day emergency purchases from other than small producers, the Commission noted in Opinion 699-B[5] that a pipeline would be entitled to include in its purchased gas costs a rate for such purchases "which a reasonably prudent pileline purchaser would pay for gas under the same or similar circumstances." Accordingly, we believe it appropriate to establish hearing procedures to determine the appropriate rate level of those 60-day emergency purchases included in the filing which are in excess of the rate levels prescribed in Opinion 699-H.

With regard to the 180 day emergency purchases from other than small producers, we indicated in Order No. 491-B, issued November 2, 1973, mimeo p. 13, that we would "scrutinize the rates of all 180 day emergency purchases in the review of purchased gas costs in pipeline rate proceedings, including purchased gas * * * adjustment clause increases." We made it clear that we would "permit the pipeline to pass on to the consumer the rates of emergency purchases only when such rates can be shown to have been required in the public interest." Accordingly, we are setting these matters for hearing to give El Paso an opportunity to show that the prices paid by it pursuant to emergency sales made by producers under Order No. 491, as amended, which are reflected in its PGA increases, are just and reasonable. In this connection, we shall also make the producers involved respondents herein so that they may present cost evidence to show that the rates charged by them are just and reasonable.[6]

Cost evidence relating to the producer sales under Order No. 491 can also provide the basis for "just and reasonable" rate findings. *F.P.C.* v. *Texaco, Inc.*, 417 U.S 380 (1974) Therefore, we shall require the producer respondents to submit cost evidence in order that we may determine the justness and reasonableness of El Paso's rates.

The pipeline should submit evidence as to (1) its need for gas, (2) the availability of other gas supplies, (3) the amount of gas purchased from the producer involved under the emergency provisions of Order No. 491, as amended, (4) the rates of other producer sales under Order No. 491 approved for flow through, and (5) the prevailing prices in the area for both interstate and intrastate sales of gas.

Finally, the parties may submit any other evidence relevant to the Commission's determination of whether the rates paid by the pipeline with respect to sales under Order No. 491, as amended, are just and reasonable.

Our review of those claimed increased purchased gas costs contained in El Paso's filing, other than those claimed increased costs associated with that portion of small producer purchases in excess of the rate levels prescribed by the "130% formula" prescribed in Opinion 742 and with that portion of the 60 day and 180 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699-H indicates that they should be approved as being in compliance with the standards set forth in Docket No. R-406. Accordingly, we shall permit El Paso to file revised tariff sheets to become effective October 1, 1975, which reflect the costs in El Paso's filing which are in conformance with Docket No. R-406, as indicated above.

Our review of El Paso's tariff sheets for Volume 2A (Group II) indicates that the costs reflected therein are in compliance with the standards prescribed in Docket No. R-406 and that these tariff sheets should therefore be accepted for filing to become effective October 1, 1975, as proposed.

The Commission finds:

(1) It is necessary and appropriate to aid in the enforcement of the Natural Gas Act that hearing procedures be established, as hereinafter ordered and conditioned, and that El Paso's rates for Volume Nos. 1, 2, and 2A (Group I) be accepted for filing and suspended for one day until October 2, 1975, when they shall become effective, subject to refund.

(3) El Paso's rate adjustment for Volume No. 2A (Group II) should be accepted for filing to become effective October 1, 1975.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, and 16 thereof, a public hearing shall be held on January 13, 1976, at 10:00 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to determine the lawfulness of El Paso's proposed PGA rates filed on August 15, 1975, insofar as those proposed rates reflect (1) small producer purchases in excess of the "130% formula" prescribed in Opinion 742 and (2) 60 day and 180 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699-H.

(B) Within 15 days of the date of this order, El Paso shall file with the Commission a list, including addresses, of the parties from whom El Paso is purchasing gas involved in the small producer, 60 day and 180 day emergency sales set for hearing above. Following receipt of this list, we shall make the small producer and 180 day emergency sellers parties respondents to this investigation for the purposes discussed in the body of this order.

(C) Pursuant to section 5 of the Natural Gas Act, we hereby institute an investigation into the just and reasonable rates to be charged by the small producers making sales to El Paso in excess of the rates resulting from the "130% formula" prescribed in Opinion 742 and consolidate this investigation with the hearing ordered in Ordering Paragraph (A) above for purposes of hearing and decision.

(D) El Paso shall file its direct testimony and evidence on or before November 4, 1975. The parties from whom El Paso makes the subject 180 day emergency and small producer purchases, shall file their direct testimony on or before November 4, 1975. Any evidence by

[3] —— FPC —— issued August 28, 1975, in Docket No. R-393.

[4] Opinion No. 742 (mimeo, p. 13, paragraph (1)).

[5] —— FPC —— issued September 9, 1974, in Docket No. R-389-B.

[6] Under Order No. 491-B, producers are not required to make any refunds.

the Commission Staff or any intervenor shall be filed on or before December 2, 1975. Any rebuttal evidence shall be filed on or before December 16, 1975.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's Rules of Practice and Procedure.

(F) El Paso's tariff sheets for Volume Nos. 1, 2 and 2A (Group I) are hereby accepted for filing and suspended for one day, until October 2, 1975, when they shall become effective, subject to refund.

(G) El Paso's tariff sheets for Volume 2A (Group II) are hereby accepted for filing to become effective October 1, 1975.

(H) Within 15 days of the date of issuance of this order, El Paso may file revised tariff sheets to become effective October 1, 1975, which reflect those claimed increased purchased gas costs contained in El Paso's PGA adjustment in Volume Nos. 1, 2 and 2A (Group I) other than those claimed increased costs associated with that portion of small producer purchases in excess of the rate levels resulting from the "130% formula" prescribed by Opinion 742 and that portion of the 60-day and 180-day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699-H.

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

By the Commission.[1]

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

[FR Doc.75-27111; Filed 10-8-75;8:45 am]

[Docket No. RI76-29]

EXXON CORP.

Petition for Declaratory Order

OCTOBER 1, 1975.

Take notice that on September 18, 1975, Exxon Corporation (Exxon), Post Office Box 2180, Houston, Texas 77001, filed a petition for a declaratory order under the Natural Gas Act in Docket No. RI76-29 with respect to gas it is delivering from the Gomez Field, Texas under a contract dated November 4, 1964, to Northern Natural Gas Company (Northern) under its FPC Gas Rate Schedule No. 372 at a rate of 22.47¢ per Mcf.

Exxon states that seventeen (17) owners under three of the leases dedicated to the Exxon-Northern contract filed a complaint against Exxon in the U.S. District Court, Western District of Texas, Pecos Division captioned *Jane Alida Baugh Beard, et al. v. Exxon Corp.*, G-27,558. The complaint alleges an underpayment of royalties by Exxon under the three leases involved of at least $900,000.00 for the one-year period immediately preceding the filing of the action and prays for a judgment in the amount of money representing the difference between what Exxon "should have paid plaintiffs as such royalty" as well as an order directing Exxon to compute royalties due plaintiffs in the future on the basis of the market value of the gas at the time deliveries are made.

Exxon seeks a declaratory order which would answer the following questions:

(1) Will the Commission declare that its applicable just and reasonable ceiling rates, or a producer's effective rate, are the "market prices" for purposes of meeting royalty obligations under leases from which gas is produced and sold in interstate commerce? (2) Will the Commission allow the automatic adjustment of a producer's applicable ceiling rate when that producer shows that it is required to pay a royalty to its lessor(s) on a basis higher than such applicable just and reasonable ceiling rate? (3) If the answer to question (2) is "yes", will the Commission allow such an adjustment to be made pursuant to (a) an area rate clause, (b) a royalty adjustment clause (or both) which may be contained in a producer-pipeline contract, or (c) without either (a) or (b)? (4) If the answer to question (2) is "yes", will the Commission allow the pipeline purchaser to flow through to its customers the additional gas purchase costs so incurred? (5) If the answers to questions (1) through (4) are "no", will the Commission permit the abandonment of the fractional portion of gas reserves dedicated to a contract attributable to the royalty interest in the event that the lessee-producer is required to pay royalties on a basis higher than the just and reasonable ceiling rate applicable to such gas?

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 22, 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 party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-27115 Filed 10-8-75;8:45 am]

[Project No. 1651]

LOWER VALLEY POWER AND LIGHT, INC.

Application for Amendment of License

OCTOBER 1, 1975.

Public notice is hereby given that application was filed on August 16, 1971, and revised on December 10, 1973, under the Federal Power Act (16 U.S.C. 791a-825r) by Lower Valley Power and Light, Inc. (Correspondence to: Mr. Elno Draney, General Manager, Lower Valley Power and Light, Inc., P.O. Box 188, Afton, Wyoming 83110) for an amendment of the major license for Swift Creek Project No. 1651, located near the City of Afton in Lincoln County, Wyoming, and affecting lands of the United States in Bridger-Teton National Forest.

Applicant requests that the license for the Swift Creek Project be amended to eliminate from its scope the lower of Applicant's two hydroelectric developments on Swift Creek. Applicant asserts that the lower development, which was licensed with an installed capacity of 400 horsepower has been inoperative since 1968, and that rehabilitation cannot be justified due to the cost of the extensive repairs that are needed and the small output of the power plant.

The dam, reservoir, and 200 feet of pipeline of the lower development are located on lands of the United States in Bridger-Teton National Forest. The remaining pipeline and generating equipment were located on private lands and have been either sold or scrapped.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 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 C.F.R. 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 in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's Rules of Practice and Procedure, specifically § 1.32(b) (18 C.F.R. 1.32(b)), as amended by Order No. 518, a hearing before the Commission may be held on this application without further notice if no issue of substance is raised by any request to be heard, protest, or petition filed subsequent to this notice within the time required herein, and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised, or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant or initial pleader to appear or be repre-

[1] Dissenting statement of Chairman Nassikas filed as part of the original document.

sented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-27116 Filed 10-8-75;8:45 am]

[Docket No. ER-76-148]

MIDDLE SOUTH SERVICES

Notice of Cancellation

OCTOBER 1, 1975.

Take notice that on September 22, 1975, Middle South Services, Inc. (Middle South), agent for Mississippi Power and Light Company, tendered for filing a Notice of Cancellation, to be retroactively effective July 19, 1975, of its Rate Schedule F.P.C. No. 35.20 (including Supplement No. 1 thereto), originally effective on May 25, 1975.

Notice of the proposed cancellation was served on the Tennessee Valley Authority and the Mississippi Power and Light Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 9, 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.75-27117 Filed 10-8-75;8:45 am]

[Docket Nos. E-9499, E-9502, ER76-20]

MINNESOTA POWER AND LIGHT CO. AND SUPERIOR WATER, LIGHT AND POWER CO.

Filing of Revised Data Pursuant to Order

OCTOBER 1, 1975.

Take notice that on September 22, 1975, Superior Water, Light and Power Company tendered for filing substitute sheets reflecting revised rates from its supplier Minnesota Power and Light Company (MP&L) pursuant to the Commission's Order issued August 21, 1975, in the above-referenced proceedings. MP&L's filing of revised rates to its customers was made in compliance with the Commission's Order issued July 18, 1975, in Docket Nos. E-9499 and E-9502.

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, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before October 15, 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.75-27118 Filed 10-8-75;8:45 am]

[Docket No. RP75-20]

MISSISSIPPI RIVER TRANSMISSION CORP.

Further Extension of Procedural Dates

OCTOBER 1, 1975.

On September 24, 1975, Mississippi River Transmission Corporation filed a motion to extend the procedural dates fixed by order issued October 31, 1974, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of intervenor testimony, October 24, 1975.

Service of company rebuttal, November 14, 1975.

Hearing, December 4, 1975 (10 a.m. EST).

By direction of the Commission.

MARY KIDD PEAK,
Acting Secretary.

[FR Doc.75-27119 Filed 10-8-75;8:45 am]

[Docket No. RP75-108]

NATURAL GAS PIPELINE CO. OF AMERICA

Extension of Procedural Dates

OCTOBER 1, 1975.

On September 19, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued June 30, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of staff testimony, January 16, 1976.

Service of intervenor testimony, January 30, 1976.

Service of company rebuttal, February 13, 1976.

Hearing, March 2, 1976 (10 a.m. EDT).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-27120 Filed 10-8-75;8:45 am]

[Docket No. ER76-106]

NEW ENGLAND POWER CO.

Notice of Filing

OCTOBER 1, 1975.

Take notice that New England Power Company (NEPCO) on September 5, 1975, tendered for filing Unit Contracts with Boston Edison Company (Edison) and Public Service Company of New Hampshire (P.S.N.H.). The contracts provide for the sale of power from NEPCO's Bear Swamp Pumped Storage Project and are proposed to become retroactively effective on November 1, 1974, the commercial operation date of the Project's second 300 MW Unit.

NEPCO states that the agreements are substantially similar to other One-Unit sales that it has made from this Project. Copies of the filing were originally mailed in December 1974 but evidently not received by the Commission's office.

NEPCO further has requested a waiver of the prior notice provision in accordance with § 35.11 of the Commission's Regulations.

Copies of the filing were served on Edison and P.S.N.H.

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 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 October 10, 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.75-27121 Filed 10-8-75;8:45 am]

[Docket Nos. E-9136 and E-9140]

NEW ENGLAND POWER CO.

Further Procedural Dates

OCTOBER 1, 1975.

On September 26, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued June 18, 1975, as most recently modified by notice issued August 29, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of company rebuttal, October 28, 1975.

Hearing, November 18, 1975 (10 a.m., EST).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-27122 Filed 10-8-75;8:45 am]

[Docket No. ER76-146]

PACIFIC POWER & LIGHT CO.

Letter Agreement

OCTOBER 1, 1975.

Take notice that on September 22, 1975 Pacific Power & Light Company (Pacific) tendered for filing a Letter Agreement between it and Black Hills Power and Light Company (Black Hills)

dated July 15, 1975 which provides for the use of Pacific's transmission system by Black Hills to transfer electric power and energy to and from the Bureau of Reclamation for the period July 1, 1975 to November 1, 1976.

Pacific states that no estimates of quantities of energy to be delivered or revenues to be derived therefrom can be made.

Pacific requests waiver of the Commission's notice requirements to permit an effective date of July 7, 1975 for the Agreement.

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 petions or protests should be filed on or before October 17, 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.75-27123 Filed 10-8-75;8:45 am]

[Docket No. ER76-140]

PENNSYLVANIA POWER & LIGHT CO.

Filing of Notice of Cancellation

OCTOBER 1, 1975.

Take notice that Pennsylvania Power & Light Company (PP&L), on September 12, 1975, tendered for filing a Notice of Cancellation of its Rate Schedule FPC No. 62 with Metropolitan Edison Company (Met Ed). PP&L requests that the Notice of Cancellation be permitted to become effective on September 1, 1975.

The filing indicates that a copy of the Notice of Cancellation was served upon Met Ed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 14, 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.75-27124 Filed 10-8-75;8:45 am]

[Docket No. ER76-149]

PUBLIC SERVICE CO. OF INDIANA, INC.

Tariff Changes

OCTOBER 1, 1975.

Take notice that on September 23, 1975, Public Service Company of Indiana, Inc. (PSCI) tendered for filing:

(A) Revised Tariff for wholesale service to municipal utilities, designated as PSCI's FPC Electric Tariff Original Volume No. 1 (4th Revision);

(B) Revised Tariff for wholesale service to rural electric membership corporation (REMCs), designated as PSCI's FPC Electric Tariff Original Volume No. 2 (2nd Revision);

(C) Revised Tariff for firm power service under interconnection agreements with the Cities of Crawfordsville, Peru, Washington, Logansport and Frankfort, designated as 2nd Revised Exhibit I to its Rate Schedule FPC Nos. 211, 212, 215, 223 and 224;

(D) Revised Tariff for firm power service under the interconnection agreement with Hoosier Energy Division of Indiana Statewide Rural Electric Cooperative, Inc. (Hoosier), designated as 2nd Revised Exhibit I to PSCI's Rate Schedule FPC No. 222.

PSCI states that the proposed changes would increase revenues from jurisdictional and service by $9,713,395 based on the 12-month period ending October 31, 1976. PSCI further indicates that the proposed changes will provide a rate of return of approximately 9.75% for the 12-month period ending June 30, 1976.

PSCI proposes an effective date of October 24, 1975, for these tariff changes.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 14, 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.75-27125 Filed 10-8-75;8:45 am]

[Docket No. CP70-7]

SOUTHERN NATURAL GAS CO.

Petition to Amend

SEPTEMBER 30, 1975.

Take notice that on September 17, 1975, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7 a petition to amend the order of the Commission issued October 29, 1969, in said docket pursuant to section 7 (c) of the Natural Gas Act by authorizing Petitioners to reallocate deliveries of the contract demand of natural gas between the City of Trussville, Alabama (Trussville), delivery points, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that the aforementioned order of the Commission authorizes it to sell and deliver to the Utilities Board of Trussville a contract demand of 16,000 Mcf at 14.73 psia of natural gas for delivery at two points. It is stated that 13,600 Mcf of gas are authorized to be delivered at the Huffman delivery point and 2,400 Mcf of gas are authorized to be delivered at the Trussville Area delivery point. Petitioner states that Trussville has requested that the deliveries previously authorized be redistributed to provide for the delivery of 10,000 Mcf of gas at the Trussville Area delivery point and 6,000 Mcf of gas at the Huffman delivery point. It is stated that the proposed reallocation of contract demand volumes would not change the maximum volume of gas Petitioner would be obligated to deliver to Trussville and would require only minor additional metering facilities to effectuate. The change in allocations is said to be required because Trussville is constructing an LNG facility which would be served by that Trussville Area delivery point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 17, 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.75-27112 Filed 10-8-75;8:45 am]

[Docket No. RP74-52 (PGA 76-1)]

TRANSWESTERN PIPELINE CO.

Accepting for Filing and Suspending Proposed PGA Rate Adjustment Establishing Hearing Procedures, Instituting Investigation

SEPTEMBER 30, 1975.

On August 15, 1975, Transwestern Pipeline Company (Transwestern) filed alternate PGA adjustments, both proposed to be effective October 1, 1975. The

higher alternate[1] reflects (1) increased purchased gas costs of $8,891,507 (2.94¢/Mcf) filed by its suppliers and (2) a .69¢ per Mcf reduction (from 5.02¢ to 4.33¢) in the surcharge to recoup the balance of $5,663,331 in the deferred account. This higher alternate also reflects purchases from small producers at rates in excess of the applicable levels permitted by Opinion No. 742 and 60 day emergency purchases (in the deferred account), at rates in excess of the rate levels established by Opinion No. 699-H. Anticipating a one day suspension of the higher alternate, Transwestern submitted alternate tariff sheets[2] eliminating the impact of small producer purchases at rates in excess of the level established by Opinion No. 699-H, but not eliminating emergency purchases which are imbedded in the deferred account that are in excess of the Opinion No. 699-H level.

The filing was noticed on August 21, 1975, with all comments due on or before September 16, 1975. No responses have been received.

Our review of the higher alternate tariff sheets indicates that they contain small producer purchases in excess of the rate levels prescribed in Opinion No. 742 and 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion No. 699-H. Therefore, the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we shall accept the higher alternate tariff sheets for filing and suspend them for one day until October 2, 1975, when they shall become effective, subject to refund.

With regard to the issue of small producers, we shall establish hearing procedures to determine the just and reasonable rate levels of those small producer purchases to be included in Transwestern's filing which are in excess of the rate levels resulting from use of the "130% formula" prescribed in Opinion No. 742.[3] In this connection, we believe it appropriate to make the small producers involved respondents so that they may present evidence to show that the rates charged by them to Transwestern are just and reasonable. Although the small producers are not required to make refunds, we believe it appropriate to institute a Section 5 investigation against the small producers involved so that the just and reasonable small producer rate determined in this proceeding can be applied prospectively.

Within 15 days of the date of this order, Transwestern shall file a list of the small producers making sales reflected in the instant filing in excess of the "130% formula" rates in order that they may be made respondent to this proceeding.

Cost evidence relating to the small producer sales which are the subject of the hearing ordered herein can clearly provide the basis for "just and reasonable" rate findings. *F.P.C.* v. *Texaco Inc.*, 417 U.S. 380 (1974). Accordingly, we shall require the small producer respondents to submit cost evidence in order that we may determine the justness and reasonableness of Transwestern's rates and make appropriate prospective adjustments, if found necessary, to the small producer rate pursuant to our authority under Section 5 of the Natural Gas Act.

Transwestern must show that the rate paid by Transwestern to the small producer is just and reasonable by presenting evidence considering all relevant factors including, *inter alia*, (1) the pipeline's need for gas, (2) the availability of other gas suppliers, (3) the amount of gas dedicated under the contract, (4) the rates of other recent small producer sales previously approved for flow through and (5) comparison with appropriate market prices.[4]

Finally, the parties may submit any other evidence relevant to the Commission's determination of whether the rates paid by the pipeline with respect to the subject small producer sales are just and reasonable.

With regard to the 60-day emergency purchases from other than small producers, the Commission noted in Opinion 699-B[5] that a pipeline would be entitled to include in its purchased gas costs a rate for such purchases "which a reasonably prudent pipeline purchaser would pay for gas under the same or similar circumstances." Accordingly, we believe it appropriate to establish hearing procedures to determine the appropriate rate level of those 60-day emergency purchases included in the filing which are in excess of the rate levels prescribed in Opinion 699-H.

Our review of those claimed increased purchased gas costs contained in Transwestern's filing, other than those claimed increased costs associated with that portion of small producer purchases in excess of the rate levels prescribed by the "130% formula" prescribed in Opinion 742 and with that portion of the 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699-H, indicates that they should be approved as being in compliance with the standards set forth in Docket No. R-406. Accordingly, we shall permit Transwestern to file revised tariff sheets to become effective October 1, 1975, which reflect the costs in Transwestern's filing which are in conformance with Docket No. R-406, as indicated above.[6]

The Commission finds:

(1) It is necessary and appropriate to aid in the enforcement of the Natural Gas Act that hearing procedures be established, as hereinafter ordered and conditioned, and that Transwestern's higher alternate rates be accepted for filing and suspended for one day until October 2, 1975, when they shall become effective, subject to refund.

(2) The claimed increased purchased gas costs in Transwestern's higher alternate rate filing, other than those claimed increased costs associated with that portion of small producer purchases in excess of the "130% formula" prescribed in Opinion 742 and of that portion of the 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699-H, are in compliance with the standards set forth in Docket No. R-406.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, and 16 thereof, a public hearing shall be held on January 13, 1976 at 10:00 A.M., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to determine the lawfulness of Transwestern's proposed higher alternate PGA rates filed on August 15, 1975, insofar as those proposed rates reflect (1) small producer purchases in excess of the "130% formula" prescribed in Opinion 742 and (2) 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 669-H.

(B) Within 15 days of the date of this order, Transwestern shall file with the Commission a list, including addresses, of the parties from whom Transwestern is purchasing gas involved in the small producer and 60 day emergency sales set for hearing above. Following receipt of this list, we shall make the small producer sellers parties respondents to this investigation for the purposes discussed in the body of this order.

(C) Pursuant to Section 5 of the Natural Gas Act, we hereby institute an investigation into the just and reasonable rate to be charged by the small producers making sales to Transwestern in excess of the rates resulting from the "130% formula" prescribed in Opinion 742 and consolidate this investigation with the hearing ordered in Ordering Paragraph (A) above for purposes of hearing and decision.

(D) Transwestern shall file its direct testimony and evidence on or before November 4, 1975. The parties from whom Transwestern makes the subject small producer purchases shall file their direct testimony on or before November 4, 1975. Any evidence by the Commission Staff or any intervenor shall be filed on or before December 2, 1975. Any rebuttal evidence shall be filed on or before December 16, 1975.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in

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[1] Revised Third Revised Sheet Nos. 3-A and 3-B to FPC Gas Tariff, First Revised Volume No. 1.

[2] Third Revised Sheet Nos. 3-A and 3-B to FPC Gas Tariff, First Revised Volume No. 1.

[3] —— FPC —— issued August 28, 1975, in Docket No. R-393.

[4] Opinion 742 (mimeo, p. 13, paragraph (1)).

[5] —— FPC —— issued September 9, 1974, in Docket No. R-389-B.

[6] In light of this, we need take no action with respect to Transwestern's "lower alternate" tariff sheets.

this proceeding pursuant to the Commission's Rules of Practice and Procedure.

(F) Pending hearing and decision thereon, Transwestern's higher alternate rates are accepted for filing and suspended for one day until October 2, 1975, when they shall become effective, subject to refund.

(G) Within 15 days of the date of issuance of this order, Transwestern may file revised tariff sheets to become effective October 1, 1975, which reflect those claimed increased purchased gas costs contained in Transwestern's higher alternate rate other than those claimed increased costs associated with that portion of small producer purchases in excess of the rate levels resulting from the "130% formula" prescribed by Opinion 742 and that portion of the 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699–H.

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

By the Commission.[1]

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

[FR Doc.75-27113 Filed 10-8-75;8:45 am]

[Docket No. RP76-15]

ALGONQUIN GAS TRANSMISSION CO.

Proposal to Institute a Purchased Feedstock Adjustment Clause

OCTOBER 6, 1975.

Take notice that on September 24, 1975, Algonquin Gas Transmission Company (Algonquin Gas) filed the following proposed tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1:

Original Sheet No. 20–A, Original Sheet No. 20–B, Original Sheet No. 20–C, Ninth Revised Sheet No. 10.

The tariff sheets propose to institute a Purchased Feedstock Adjustment Clause (PFAC) applicable to Algonquin Gas' Rate Schedule SNG–1. Algonquin Gas states that the PFAC would provide, through a Deferred Gas Cost Account with related amortization, surcharges for reimbursement to Algonquin Gas for undercharges, or reimbursement to the Company's customers for overcharges resulting from the difference between (i) the actual feedstock costs for manufacturing gas delivered under such Rate Schedule SNG–1, and (ii) the base feedstock costs included in the charges to such customers for service under such Rate Schedule. The PFAC is proposed to be effective for a single cycle: (i) the period October 23, 1975 through April 15, 1976 with respect to the accumulation of such Deferred Gas Cost Account, and (ii) the period October 16, 1976, through April 15, 1977, with respect to the effectiveness of the amortization adjustment of such Deferred Gas Cost Account.

Algonquin Gas further states that copies of the filing have been served upon all of its customers and interested state regulatory commissions.

Any persons 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, 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 October 10, 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.75-27196 Filed 10-8-75;8:45 am]

[Docket No. RP76-14]

SOUTHWEST GAS CORP.

Filing of Tariff Sheet

OCTOBER 2, 1975.

Take notice that on September 24, 1975, Southwest Gas Corporation (Southwest) tendered for filing Fourth Revised Sheet No. 13, constituting a portion of the General Terms and Conditions, in its FPC Gas Tariff, Original Volume No. 1. According to Southwest, the purpose of this filing is to modify Section 5.2, "Payment," of its General Terms and Conditions contained in its FPC Volume No. 1.

Southwest states the instant tariff filing, to become effective October 24, 1975, is occasioned by Northwest Pipeline Corporation's (Northwest) filing to change its "Payment" section. Southwest further states that Northwest's change would have a significant effect upon Southwest if its obligation requirements of customers were not identical to Northwest's which will now require immediate available funds at a depository designated by seller. The proposed change will have no effect upon Southwest's sales and revenues.

Southwest states that copies of the filing have been mailed to the Nevada Public Service Commission, the California Public Utilities Commission, Sierra Pacific Power Company, and the California-Pacific Utilities Company.

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 October 10, 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.75-27195 Filed 10-8-75;8:45 am]

POSTAL SERVICE

POSTAGE RATES AND FEES

Proposed Changes

1. On September 18, 1975, the United States Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on changes in rates of postage and fees for postal services pursuant to chapter 36 of title 39, United States Code. The Postal Service submitted suggestions for specific rate adjustments.

2. The specific changes in rates of postage and fees for postal services suggested by the Postal Service are shown in columns (3) and (4) of the tables set out in paragraph 5 below.

3. If the Postal Rate Commission transmits to the Governors of the Postal Service a recommended decision recommending changes in rates of postage and fees for postal services for the classes of mail or kinds of mailers referred to in 39 U.S.C. 3626 and if the Governors approve the recommended decision and order the decision placed in effect, it is expected that the Governors, pursuant to 39 U.S.C. 3626, will adopt separate schedules of rates and fees providing for the phasing-in of certain increases, as prescribed by such section.

4. If the Postal Rate Commission does not transmit its recommended decision to the Governors of the Postal Service within 90 days after submission of the Postal Service's request (September 18, 1975), the Postal Service intends to place in effect, on December 28, 1975, temporary changes in rates of postage and fees for postal services as shown in column (5) of the tables set out in paragraph 5 below, under the authority of 39 U.S.C. 3641. These temporary changes are subject to revision; for example, if permanent rates have not been recommended by the Commission prior to July 6, 1976, it is expected that further temporary changes will be implemented in rates for classes of mail or kinds of mailers referred to in 39 U.S.C. 3626.

5. The following tables show the Postal Service's suggested changes in rates and fees for which it has requested a recommended decision, and the temporary rates and fees anticipated if temporary changes are placed in effect under 39 U.S.C. 3641 on December 28, 1975. (39 U.S.C. 401, 404, 3621, 3641, 84 Stat. 719.)

ROGER P. CRAIG, *Deputy General Counsel.*

[1] Dissenting statement of Chairman Nassikas filed as part of the original document.

TABLE A–I.—*1st class mail and airmail*

Mail class	Postage rate unit	Current rates (cents)	Proposed rates (cents)	Temporary rates (cents)
(1)	(2)	(3)	(4)	(5)
1st class:				
Letters	Ounce	10	13	13
	Each additional ounce	[1] 9	[1] 11	[1] 11
Cards	Each	7	10	9
Airmail:				
Letters	Ounce	13	17	17
	Each additional ounce	[2] 13	[2] 15	[2] 15
Cards	Each	11	14	14
1st class and airmail business reply fees.	Up to 2 oz	5	5	5
	Over 2 oz	8	8	8

[1] Rate applicable through 13 oz. Heavier pieces are subject to priority mail rates.
[2] Rate applicable through 9 oz. Heavier pieces are subject to priority mail rates.
[3] Rate applicable through 10 oz. Heavier pieces are subject to priority mail rates.

TABLE A–II.—*Priority mail*

Mail class	Postage rate unit (pounds)	Current rates [1] (dollars)						Proposed rates [1] (dollars)						Temporary rates [2] (dollars)
(1)	(2)	(3)						(4)						(5)
		Zones						Zones						
Priority		Local 1, 2, and 3	4	5	6	7	8	Local 1, 2, and 3	4	5	6	7	8	
	1	1.25	1.25	1.25	1.30	1.30	1.30	1.56	1.58	1.60	1.62	1.64	1.67	[3]
	1.5	1.50	1.54	1.60	1.68	1.75	1.82	1.73	1.77	1.84	1.90	1.97	2.07	[3]
	2	1.75	1.83	1.95	2.06	2.20	2.34	1.89	1.96	2.07	2.18	2.29	2.46	[3]
	2.5	1.93	2.03	2.17	2.31	2.48	2.65	2.05	2.15	2.29	2.43	2.59	2.78	[3]
	3	2.11	2.23	2.39	2.56	2.76	2.96	2.21	2.33	2.50	2.68	2.88	3.09	[3]
	3.5	2.29	2.43	2.61	2.81	3.04	3.27	2.37	2.51	2.70	2.91	3.15	3.38	[3]
	4	2.47	2.63	2.83	3.06	3.32	3.58	2.53	2.69	2.90	3.14	3.41	3.67	[3]
	4.5	2.65	2.83	3.05	3.31	3.60	3.89	2.68	2.86	3.09	3.35	3.65	3.94	[3]
	5	2.83	3.03	3.27	3.56	3.88	4.20	2.83	3.03	3.27	3.56	3.88	4.20	[3]
	Each additional pound	.36	.40	.44	.50	.56	.62	.30	.34	.37	.42	.47	.52	[4]

[1] Exception: Parcels weighing less than 10 lb (15 lb under proposed rates), measuring over 84 in but not exceeding 100 in in length and girth combined, are chargeable with a minimum rate equal to that for a 10-lb parcel (15-lb parcel under proposed rates) for the zone to which addressed.
[2] Under temporary rates the above exception is not applicable.
[3] Same as col. (4).

TABLE B–I.—*2d class mail*

[In-county and transient rates]

Mail class	Postage rate unit	Current full rates (cents)	Proposed full rates (cents)	Temporary rates (cents)
(1)	(2)	(3)	(4)	(5)
In-county:				
Pound-rate matter	Pound	2.4	3.5	1.7.
	Per piece	1.7	2.1	0.4.
Per-copy rate matter	Per copy	3.5 or 4.7	3.9 or 5.2	1.5 or 2.5.
Transient rate	First 2 oz	8.0	8.0	8.0.
	Each additional ounces	4.0	4.0	4.0.

TABLE B–II.—*2d class mail*

[Publications of authorized nonprofit organizations—outside county]

Mail class	Postage rate unit	Current full rates (cents)	Proposed full rates (cents)	Temporary rates (cents)
(1)	(2)	(3)	(4)	(5)
Nonadvertising portion	Pound	6.2	9.0	3.3
Advertising portions [1]				
Zones:				
1 and 2	do	9.6	11.5	5.5
3	do	10.3	12.5	6.2
4	do	11.5	13.5	7.8
5	do	13.3	15.0	9.4
6	do	15.2	17.0	10.4
7	do	17.3	19.0	11.1
8	do	19.5	21.4	11.7
Per-piece charge	Piece	2.5	3.5	.6

[1] Not applicable to publications containing 10 pct or less advertising content.

TABLE B–III.—*2d class mail*
[Publications for classroom use—outside county]

Mail class (1)	Postage rate unit (2)	Current full rates (cents) (3)	Proposed full rates (cents) (4)	Temporary rates (cents) (5)
Nonadvertising portion	Pound	3.6	5.5	3.0
Advertising portion				
Zones:				
1 and 2	do	3.8	6.0	4.0
3	do	4.5	7.0	4.7
4	do	5.7	8.0	5.9
5	do	7.5	9.5	7.7
6	do	9.4	11.5	9.6
7	do	11.5	13.5	10.7
8	do	13.7	15.9	12.4
Per-piece charge	Piece	1.4	2.2	.5

TABLE B–IV.—*2d class mail*
[Regular-rate publications—outside county]

Mail class (1)	Postage rate unit (2)	Current full rates (cents) (3)	Proposed full rates (cents) (4)	Temporary rates (cents) (5)
Nonadvertising portion	Pound	8.0	9.8	6.2
Advertising portion				
Zones:				
1 and 2 (Science of agriculture)	do	9.6	11.5	5.6
1 and 2	do	10.0	12.2	8.2
3	do	10.7	13.0	9.1
4	do	11.9	14.2	10.8
5	do	13.7	16.0	12.8
6	do	15.6	18.0	14.9
7	do	17.7	20.0	16.5
8	do	19.9	22.1	18.8
Per-piece charge	Piece	3.5	4.3	1.5
Do.[1]	do	2.5	3.5	.6

[1] Fewer than 5,000 copies per issue mailed outside county of publication.

TABLE C.—*Controlled circulation*

Mail class (1)	Postage rate unit (2)	Current full rates (cents) (3)	Proposed full rates (cents) (4)	Temporary rates (cents) (5)
	Pound	18.0	13.7	10.1
	Minimum-per-piece	6.3		
	Per-piece		4.5	3.0

TABLE D.—*3d-class mail*

Mail class (1)	Postage rate unit (2)	Current full rates (cents) (3)	Proposed full rates (cents) (4)	Temporary rates (cents) (5)
Single piece	First 2 oz	10.0	14.0	[3]
	Next 2 oz	8.0	14.0	[3]
	Each additional 2 oz	8.0	10.0	[3]
Temporary rates for 3d class single piece.	Up to 2			13.0
	2 to 4			24.0
	4 to 6			34.0
	6 to 8			45.0
	8 to 10			56.0
	10 to 12			66.0
	12 to 14			77.0
	14 to 16			88.0
Keys and identification devices	First 2 oz	16.0	19.0	19.0
	Next 2 oz			14.0
	Each additional 2 oz	9.0	14.0	12.0
Regular bulk rate:				
Circulars	Pound	32.0	41.0	[3]
	Minimum per piece	[2] 6.1/6.3	[2] 7.7/7.9	[3]
Books, catalogs, et cetera	Pound	28.0	32.0	[3]
	Minimum per piece	[2] 6.1/6.3	[2] 7.7/7.9	[3]
Nonprofit bulk rate:				
Circulars	Pound	18.0	19.0	12.0
	Minimum per piece	3.0	3.3	1.8
Books, catalogs, et cetera	Pound	16.0	16.0	10.0
	Minimum per piece	3.0	3.3	1.8
Annual bulk mailing fee (dollars)		30.00	40.00	40.00

[1] See separate schedule.
[2] The lower minimum rate is applicable to the first 250,000 pieces sent annually.
[3] Same as col. (4).

TABLE E–I.—*4th-class mail, parcel post*

Postage rate unit (2)	Current rates (4)							
Weight—1 lb and not exceeding (pounds)	Zones							
	Local	1 & 2	3	4	5	6	7	8
2	$0.67	$0.79	$0.82	$0.91	$1.00	$1.12	$1.23	$1.32
3	.72	.86	.90	1.01	1.13	1.29	1.45	1.58
4	.76	.92	.98	1.11	1.26	1.46	1.66	1.84
5	.81	.99	1.06	1.21	1.39	1.63	1.88	2.10
6	.85	1.05	1.14	1.31	1.52	1.80	2.09	2.36
7	.90	1.12	1.22	1.41	1.65	1.97	2.31	2.62
8	.94	1.18	1.30	1.51	1.78	2.14	2.52	2.88
9	.99	1.25	1.38	1.61	1.91	2.31	2.74	3.14
10	1.03	1.31	1.46	1.71	2.04	2.48	2.95	3.40
11	1.08	1.38	1.54	1.81	2.17	2.65	3.17	3.66
12	1.12	1.44	1.62	1.91	2.30	2.82	3.38	3.92
13	1.17	1.51	1.70	2.01	2.43	2.99	3.60	4.18
14	1.21	1.57	1.78	2.11	2.56	3.16	3.81	4.44
15	1.26	1.64	1.86	2.21	2.69	3.33	4.03	4.70
16	1.30	1.70	1.94	2.31	2.83	3.50	4.24	4.96
17	1.35	1.77	2.02	2.41	2.95	3.67	4.46	5.22
18	1.39	1.83	2.10	2.51	3.08	3.84	4.67	5.48
19	1.44	1.90	2.18	2.61	3.21	4.01	4.89	5.74
20	1.48	1.96	2.26	2.71	3.34	4.18	5.10	6.00
21	1.53	2.03	2.34	2.81	3.47	4.35	5.32	6.26
22	1.57	2.09	2.42	2.91	3.60	4.52	5.53	6.52
23	1.62	2.16	2.50	3.01	3.73	4.69	5.75	6.78
24	1.66	2.22	2.58	3.11	3.86	4.86	5.96	7.04
25	1.71	2.29	2.66	3.21	3.99	5.03	6.18	7.30
26	1.75	2.35	2.74	3.31	4.12	5.20	6.39	7.56
27	1.80	2.42	2.82	3.41	4.25	5.37	6.61	7.82
28	1.84	2.48	2.90	3.51	4.38	5.54	6.82	8.08
29	1.89	2.55	2.98	3.61	4.51	5.71	7.04	8.34
30	1.93	2.61	3.06	3.71	4.64	5.88	7.25	8.60
31	1.98	2.68	3.14	3.81	4.77	6.05	7.47	8.86
32	2.02	2.74	3.22	3.91	4.90	6.22	7.68	9.12
33	2.07	2.81	3.30	4.01	5.03	6.39	7.90	9.38
34	2.11	2.87	3.38	4.11	5.16	6.56	8.11	9.64
35	2.16	2.94	3.46	4.21	5.29	6.73	8.33	9.90
36	2.20	3.00	3.54	4.31	5.42	6.90	8.54	10.16
37	2.25	3.07	3.62	4.41	5.55	7.07	8.76	10.42
38	2.29	3.13	3.70	4.51	5.68	7.24	8.97	10.68
39	2.34	3.20	3.78	4.61	5.81	7.41	9.19	10.94
40	2.38	3.26	3.86	4.71	5.94	7.58	9.40	11.20
41	2.43	3.33	3.94	4.81	6.07	7.75	9.62	11.46
42	2.47	3.39	4.02	4.91	6.20	7.92	9.83	11.72
43	2.52	3.46	4.10	5.01	6.33	8.09	10.05	11.98
44	2.56	3.52	4.18	5.11	6.46	8.26	10.26	12.24
45	2.61	3.59	4.26	5.21	6.59	8.43	10.48	12.50
46	2.65	3.65	4.34	5.31	6.72	8.60	10.69	12.76
47	2.70	3.72	4.42	5.41	6.85	8.77	10.91	13.02
48	2.74	3.78	4.50	5.51	6.98	8.94	11.12	13.28
49	2.79	3.85	4.58	5.61	7.11	9.11	11.34	13.54
50	2.83	3.91	4.66	5.71	7.24	9.28	11.55	13.80
51	2.88	3.98	4.74	5.81	7.37	9.45	11.77	14.06
52	2.92	4.04	4.82	5.91	7.50	9.62	11.98	14.32
53	2.97	4.11	4.90	6.01	7.63	9.79	12.20	14.58
54	3.01	4.17	4.98	6.11	7.76	9.96	12.41	14.84
55	3.06	4.24	5.06	6.21	7.89	10.13	12.63	15.10
56	3.10	4.30	5.14	6.31	8.02	10.30	12.84	15.36
57	3.15	4.37	5.22	6.41	8.15	10.47	13.06	15.62
58	3.19	4.43	5.30	6.51	8.28	10.64	13.27	15.88
59	3.24	4.50	5.38	6.61	8.41	10.81	13.49	16.14
60	3.28	4.56	5.46	6.71	8.54	10.98	13.70	16.40
61	3.33	4.63	5.54	6.81	8.67	11.15	13.92	16.66
62	3.37	4.69	5.62	6.91	8.80	11.32	14.13	16.92
63	3.42	4.76	5.70	7.01	8.93	11.49	14.35	17.18
64	3.46	4.82	5.78	7.11	9.06	11.66	14.56	17.44
65	3.51	4.89	5.86	7.21	9.19	11.83	14.78	17.70
66	3.55	4.95	5.94	7.31	9.32	12.00	14.99	17.96
67	3.60	5.02	6.02	7.41	9.45	12.17	15.21	18.22
68	3.64	5.08	6.10	7.51	9.58	12.34	15.42	18.48
69	3.69	5.15	6.18	7.61	9.71	12.51	15.64	18.74
70	3.73	5.21	6.26	7.71	9.84	12.68	15.85	19.00

EXCEPTIONS

a. Parcels weighing less than 15 lb, and measuring over 84 in. but not exceeding 100 in. in length and girth combined, are chargeable with a minimum rate equal to that for a 15-lb parcel for the zone to which addressed. See Postal Service Manual section 135.3 for size and weight restrictions.

b. Gold mailed within Alaska and from Alaska to other States and U.S. possessions: 2¢ each ounce or fraction egardless of distance.

TABLE E–I.—*4th class mail, parcel post*

Postage rate unit (3) Weight-1 lb and not exceeding (pounds)	Proposed full rates [1] (4) Zones							
	Local	1 & 2	3	4	5	6	7	8
2	$0.77	$0.90	$0.93	$1.04	$1.15	$1.28	$1.40	$1.48
3	.82	.97	1.02	1.15	1.29	1.46	1.62	1.74
4	.86	1.04	1.10	1.25	1.42	1.63	1.84	2.00
5	.91	1.11	1.19	1.36	1.56	1.81	2.06	2.26
6	.95	1.18	1.27	1.46	1.69	1.98	2.28	2.52
7	1.00	1.25	1.36	1.57	1.83	2.16	2.50	2.78
8	1.04	1.32	1.44	1.67	1.96	2.33	2.72	3.04
9	1.09	1.39	1.53	1.78	2.10	2.51	2.94	3.30
10	1.13	1.46	1.61	1.88	2.23	2.68	3.16	3.56
11	1.18	1.53	1.70	1.99	2.37	2.86	3.38	3.82
12	1.22	1.60	1.78	2.09	2.50	3.03	3.60	4.08
13	1.27	1.67	1.87	2.20	2.64	3.21	3.82	4.34
14	1.31	1.74	1.95	2.30	2.77	3.38	4.04	4.60
15	1.36	1.81	2.04	2.41	2.91	3.56	4.26	4.86
16	1.40	1.88	2.12	2.51	3.04	3.73	4.48	5.12
17	1.45	1.95	2.21	2.62	3.18	3.91	4.70	5.38
18	1.49	2.02	2.29	2.72	3.31	4.08	4.92	5.64
19	1.54	2.09	2.38	2.83	3.45	4.26	5.14	5.90
20	1.58	2.16	2.46	2.93	3.58	4.43	5.36	6.16
21	1.63	2.23	2.55	3.04	3.72	4.61	5.58	6.42
22	1.67	2.30	2.63	3.14	3.85	4.78	5.80	6.68
23	1.72	2.37	2.72	3.25	3.99	4.96	6.02	6.94
24	1.76	2.44	2.80	3.35	4.12	5.13	6.24	7.20
25	1.81	2.51	2.89	3.46	4.26	5.31	6.46	7.46
26	1.85	2.58	2.97	3.56	4.39	5.48	6.68	7.72
27	1.90	2.65	3.06	3.67	4.53	5.66	6.90	7.98
28	1.94	2.72	3.14	3.77	4.66	5.83	7.12	8.24
29	1.99	2.79	3.23	3.88	4.80	6.01	7.34	8.50
30	2.03	2.86	3.31	3.98	4.93	6.18	7.56	8.76
31	2.08	2.93	3.40	4.09	5.07	6.36	7.78	9.02
32	2.12	3.00	3.48	4.19	5.20	6.53	8.00	9.28
33	2.17	3.07	3.57	4.30	5.34	6.71	8.22	9.54
34	2.21	3.14	3.65	4.40	5.47	6.88	8.44	9.80
35	2.26	3.21	3.74	4.51	5.61	7.06	8.66	10.06
36	2.30	3.28	3.82	4.61	5.74	7.23	8.88	10.32
37	2.35	3.35	3.91	4.72	5.88	7.41	9.10	10.58
38	2.39	3.42	3.99	4.82	6.01	7.58	9.32	10.84
39	2.44	3.49	4.08	4.93	6.15	7.76	9.54	11.10
40	2.48	3.56	4.16	5.03	6.28	7.93	9.76	11.36
41	2.53	3.63	4.25	5.14	6.42	8.11	9.98	11.62
42	2.57	3.70	4.33	5.24	6.55	8.28	10.20	11.88
43	2.62	3.77	4.42	5.35	6.69	8.46	10.42	12.14
44	2.66	3.84	4.50	5.45	6.82	8.63	10.64	12.40
45	2.71	3.91	4.59	5.56	6.96	8.81	10.86	12.66
46	2.75	3.98	4.67	5.66	7.09	8.98	11.08	12.92
47	2.80	4.05	4.76	5.77	7.23	9.16	11.30	13.18
48	2.84	4.12	4.84	5.87	7.36	9.33	11.52	13.44
49	2.89	4.19	4.93	5.98	7.50	9.51	11.74	13.70
50	2.93	4.26	5.01	6.08	7.63	9.68	11.96	13.96
51	2.98	4.33	5.10	6.19	7.77	9.86	12.18	14.22
52	3.02	4.40	5.18	6.29	7.90	10.03	12.40	14.48
53	3.07	4.47	5.27	6.40	8.04	10.21	12.62	14.74
54	3.11	4.54	5.35	6.50	8.17	10.38	12.84	15.00
55	3.16	4.61	5.44	6.61	8.31	10.56	13.06	15.26
56	3.20	4.68	5.52	6.71	8.44	10.73	13.28	15.52
57	3.25	4.75	5.61	6.82	8.58	10.91	13.50	15.78
58	3.29	4.82	5.69	6.92	8.71	11.08	13.72	16.04
59	3.34	4.89	5.78	7.03	8.85	11.26	13.94	16.30
60	3.38	4.96	5.86	7.13	8.98	11.43	14.16	16.56
61	3.43	5.03	5.95	7.24	9.12	11.61	14.38	16.82
62	3.47	5.10	6.03	7.34	9.25	11.78	14.60	17.08
63	3.52	5.17	6.12	7.45	9.39	11.96	14.82	17.34
64	3.56	5.24	6.20	7.55	9.52	12.13	15.04	17.60
65	3.61	5.31	6.29	7.66	9.66	12.31	15.26	17.86
66	3.65	5.38	6.37	7.76	9.79	12.48	15.48	18.12
67	3.70	5.54	6.46	7.87	9.93	12.66	15.70	18.38
68	3.74	5.52	6.54	7.97	10.06	12.83	15.92	18.64
69	3.79	5.59	6.63	8.08	10.20	13.01	16.14	18.90
70	3.83	5.66	6.71	8.18	10.33	13.18	16.36	19.16

[1] Temporary rates are the same as those in col. (4). Under temporary rates the stop-loss condition is waived under authority of 39 U.S.C. 3641(b).

EXCEPTIONS

a. Parcels weighing less than 15 lb, and measuring over 84 in but not exceeding 100 in in length and girth combined, are chargeable with a minimum rate equal to that for a 15-lb parcel for the zone to which addressed. See Postal Service Manual section 135.3 for size and weight restrictions.

b. Gold mailed within Alaska or from Alaska to other states and U.S. possessions: 2¢ each ounce or fraction, regardless of distance.

TABLE E–II.—*4th-class mail catalogs, single piece*

Mail class	Postage rate unit (pounds)	Current rates (cents)							
(1)	(2)	(3)							
		Zones							
		Local	1 & 2	3	4	5	6	7	8
	1.5	34	41	42	44	46	48	51	55
	2	35	43	44	47	49	52	56	61
	2.5	36	45	46	50	53	56	61	67
	3	38	47	49	52	56	61	66	73
	3.5	39	49	51	55	60	65	71	79
	4	40	51	53	58	63	69	77	86
	4.5	41	52	55	61	66	73	82	92
	5	42	54	57	63	70	77	87	98
	6	45	58	62	69	77	86	97	110
	7	47	62	66	74	83	94	107	122
	8	50	66	71	80	90	103	117	134
	9	52	70	75	85	97	111	128	147
	10	54	73	79	91	104	119	138	159

Mail class	Postage rate unit (pounds)	Proposed rates (cents)							
(1)	(2)	(4)							
		Zones							
		Local	1 & 2	3	4	5	6	7	8
	1.5	52	62	64	67	70	73	78	84
	2	53	65	67	71	75	79	85	93
	2.5	55	68	70	75	81	86	93	102
	3	57	71	74	79	86	93	101	111
	3.5	59	74	78	84	91	99	109	120
	4	61	77	81	88	96	105	117	131
	4.5	62	79	84	93	101	111	125	140
	5	64	82	87	96	106	117	132	149
	6	68	88	94	105	116	131	147	167
	7	71	94	100	112	126	144	163	185
	8	75	100	107	120	137	157	178	204
	9	79	106	114	129	147	169	194	223
	10	82	111	120	138	156	181	210	242

Temporary rates for 4th-class mail catalogs, single piece

Mail class	Postage rate unit (pounds)	Temporary rates (cents)							
(1)	(2)	(5)							
		Zones							
		Local	1 & 2	3	4	5	6	7	8
	1.5	45	54	56	58	61	64	68	73
	2	46	57	58	62	65	69	74	81
	2.5	48	60	61	66	70	74	81	89
	3	50	62	65	69	74	81	88	97
	3.5	52	65	68	73	80	86	94	105
	4	53	68	70	77	84	92	102	114
	4.5	54	69	73	81	88	97	109	122
	5	56	72	76	84	93	102	115	130
	6	60	77	82	92	102	114	129	146
	7	62	82	88	98	110	125	142	162
	8	66	88	94	106	120	137	156	178
	9	69	93	100	113	129	148	170	196
	10	72	97	105	121	138	158	184	212

TABLE E—III.—*4th class mail catalogs, bulk* [1]

Mail class	Zones	Current rates (cents)		Proposed rates (cents)		Temporary rates (cents)
(1)	(2)	(3)		(4)		(5)
		Per piece	Per pound	Per piece	Per pound	
	Local	22	2.3	26	2.8	[2]
	1 and 2	26	3.7	31	4.4	[2]
	3	26	4.3	31	5.2	[2]
	4	26	5.3	31	6.4	[2]
	5	26	6.5	31	7.8	[2]
	6	26	8.0	31	9.6	[2]
	7	26	9.7	31	11.6	[2]
	8	27	11.6	32	13.9	[2]

[1] Separately addressed identical pieces in quantities of not less than 300 mailed at one time. The total charge for each bulk mailing shall be the sum of the charges derived by applying the applicable pound rate to the total number of pounds and by applying the applicable piece rate to the total number of pieces.
[2] Same as col. (4).

TABLE E–IV.—*4th class mail (Special rate and library rate)*

[Special rate and library rate]

Mail class	Postage rate unit	Current full rates (cents)	Proposed full rates (cents)	Temporary rates (cents)
(1)	(2)	(3)	(4)	(5)
Special Rate	1st lb	32	40	21
	Each additional pound			
	Through 7 lb	10	14	9
	Each additional pound	10	8	8
Library Rate	1st lb	13	29	8
	Each additional pound	6	8	4

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THURSDAY, OCTOBER 9, 1975

PART II:

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

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OCCUPATIONAL EXPOSURE TO ASBESTOS

Notice of Proposed Rulemaking

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-033]

OCCUPATIONAL EXPOSURE TO ASBESTOS

Notice of Proposed Rulemaking

Pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1599; 29 U.S.C. 655, 657) and Title 29 Code of Federal Regulations (CFR) Part 1911, it is proposed to revise 29 CFR 1910.-1001, the standard for occupational exposure to asbestos.

This standard, as revised, would continue to apply to all employments covered by the Act but would exclude the construction industry. It is OSHA's intention to develop and propose a separate revision to the existing asbestos standard which would be applicable only to the construction industry.

The accompanying document is a proposal issued pursuant to sections 6(b) and 8(c) of the Act. The Occupational Safety and Health Administration (OSHA) requests the submission of written comments, data, and arguments from interested persons on the issues addressed or implicit in the proposal. In addition, the proposal states that an informal hearing may be requested to provide further opportunity for discussion of the issues. After the hearing, if one is held, OSHA will issue a final standard based on the full record of the evidence.

The proposed standard would, among other things, lower the permissible exposure to 500,000 fibers per cubic meter (0.5 asbestos fibers per cubic centimeter) for an 8-hour time-weighted average exposure, and likewise reduce the permissible ceiling exposure to 5 million asbestos fibers per cubic meter (5 asbestos fibers per cubic centimeter) for any period not exceeding 15 minutes; extend the retention period for medical and monitoring records to forty years, or for the duration of employment plus twenty years, whichever is longer; provide procedures for the transfer of medical and monitoring records of certain former employers; require specific minimum data on medical and monitoring records; revise the procedures for initial and subsequent monitoring; modify the definitions of "asbestos" and "asbestos fiber;" add provisions for employee hygiene, information and training; revise and update the requirements for respirators, and warning signs and labels; and establish a time parameter for sampling ceiling concentrations. In addition, the proposal will suggest work practices to be followed for certain operations and processes involving asbestos.

The major issues raised in this proposal include the following:

1. Whether, and by what date, the permissible limit for an 8-hour time-weighted average exposure to asbestos should be lowered to 500,000 fibers per cubic meter (0.5 fiber per cubic centimeter), and, if so, whether such an exposure limit would provide an adequate margin of safety to protect employees against known and suspected workplace hazards of asbestos.

2. Whether, and by what date, the permissible ceiling limit should be reduced to 5 million fibers per cubic meter (5 fibers per cubic centimeter), and, if so, whether such an exposure limit would provide an adequate margin of safety to protect employees against known and suspected workplace hazards.

3. Whether the proposed change in the definitions of "asbestos" and "asbestos fiber" would clarify the standard's intended scope, and properly relate to known or suspected workplace hazards.

4. Whether the proposed sampling period for the determination of ceiling concentrations would be appropriate and adequate.

5. Whether the proposed procedures for initial and subsequent exposure monitoring would be appropriate and adequate.

6. Whether the proposed retention period for medical and monitoring records would be appropriate and adequate.

7. Whether the requirement for specific data on medical and monitoring records would be appropriate and adequate.

8. Whether the procedure for transfering the medical and monitoring records of former employers would be appropriate and adequate.

9. Whether the information gathering requirements of the proposal would create any undue administrative and economic burdens on employers, particularly for those employing small numbers of employees, or workforces which are highly transient in nature.

10. Whether the revised schedule for allowable respirator use would be appropriate and adequate for protecting workers against exposure to asbestos.

11. Whether the provision for job reassignment on account of medical unsuitability is appropriate, and, if so, whether it effectively furthers the purposes of the Act

12. Whether the appendices are appropriate and otherwise in the best interests of worker health and safety.

13. To what extent, if any, should the proposal be modified to reflect a concern for workplaces which are of a nonfixed nature or otherwise engage a highly transient workforce.

14. Whether compliance with the proposal as a whole would be technologically and economically feasible for all affected industries, and particularly for employers engaging small numbers of employees.

15. Whether the standard should have a delayed effective date for any industry sector and, if so, the extent to which a phased schedule for compliance would be appropriate.

16. What are the environmental and inflationary impacts of the proposal.

I. Background

A. General

Asbestos is a generic term used to describe a number of naturally occurring, fibrous, hydrated mineral silicates that differ in chemical composition These may be divided into two mineral groups: (1) Pyroxenes, which include chrysotile ($3MgO \cdot 2SiO_2 \cdot 2H_2O$), the type most widely used in U.S. industry; and (2) amphiboles, including amosite ($(FeMg)SiO_3$), Crocidolite ($NaFe(SiO_3)_2 \cdot FeSiO_3 \cdot H_2O$), tremolite ($Ca_2Mg_5Si_8O(OH_{22})_2$), anthophyllite ($(MgFe)_7Si_8O_{22}(OH)_2$ an dactinolite ($CaO \cdot 3MgFe)O \cdot 4SiO_2$). Asbestos fibers are generally characterized by high tensile strength, flexibility, heat and chemical resistance, and favorable frictional properties. Certain grades of asbestos can be carded, spun, and woven; while others can be laid and pressed to form paper, or used for structural reinforcement of materials such as cement, plastic, and asphalt.

Chrysotile (white asbestos) is the fibrous form of the mineral serpentine. It is the most common variety of asbestos, widely distributed geographically, with the largest deposits being in Canada, Russia, and Rhodesia. It accounts for over 90 percent of world consumption. Chrysotile can be readily crushed or fiberized into fine, white, silky fibers which may be processed into numerous products. The fibers have good heat resistance, but are destroyed by acids. Crocidolite (blue asbestos) is another important, although more specialized, form of asbestos. It is the fibrous form of riebeckite, and has fine, resilient fibers of a characteristic blue color. It is mined in South Africa and Australia, and to a lesser extent, in Bolivia. Crocidolite is a strong, fast filtering fiber used especially in the manufacture of asbestos cement sheets and pressure pipes. It is also characterized by its high resistance to acids.

Amosite is the fibrous variety of the mineral grunerite, a ferrous magnesium silicate mined only in South Africa. Amosite can be readily broken down into long, somewhat harsh fibers, with a brownish-yellow to almost white color, depending upon the quality. It is used largely in the production of asbestos cement and heat-insulating products. It is characterized by a good resistance to acids and other chemicals.

Anthophyllite is a magnesium silicate of somewhat variable composition which has rather fragile, brownish or off-white fibers. It is rarer than other types described, but significant quantities have been mined in Finland, Kenya, and other countries. It is used primarily as an inexpensive filler, and for some specialized applications for which good heat or chemical resistance is required.

Tremolite, a calcium magnesium silicate, is often a major component of industrial and commercial talc. It is mined in various parts of the United States including New York, Vermont, and Montana.

Actinolite, a calcium magnesium iron silicate, is rarely used in industry. It is

found in various parts of the world, but its low fiber strength makes it less desirable for industrial use.

Nearly one million tons of asbestos are consumed in the United States annually. According to the Bureau of Mines *Minerals Yearbook, 1973*, approximately 77 percent of asbestos products consumed in 1972 were used in the construction industries (186,000 short tons). Approxipercent were used in non-construction industries (186,000 short tons). Approximately 92 percent of the asbestos used in construction is firmly bonded, i.e., the asbestos is "locked in" in such products as floor tiles, asbestos cements, and roofing felts and shingles; while the remaining 8 percent is friable or in powder form present in insulation materials, asbestos cement powders, and acoustical products. These latter products generate more airborne fibers than the firmly bonded products. The 186,000 short tons of asbestos used in the non-construction industries in 1972 were utilized in such products as textiles, friction materials including brake linings and clutch facings, paper, paints, plastics, roof coatings, floor tiles, and miscellaneous other products.

An estimated 50,000 workers are involved in the manufacture of asbestos-containing products. However, this figure does not include secondary manufacture of products which contain asbestos, such as electrical or thermal insulation, or products which include previously manufactured components containing asbestos.

There are approximately 40,000 field insulation workers in the United States who are exposed to asbestos dust. The activities of these workers is estimated to cause secondary exposures to approximately three to five million other building construction and shipyard workers. However, since the dust exposure to the individual worker is extremely variable, and the number of asbestos workers at any one location is small, the primary and secondary asbestos dust exposures to all workers have never been satisfactorily estimated.

In the United States, the mining and milling of asbestos is a relatively small industry employing fewer than a thousand workers. The Occupational Safety and Health Administration does not have jurisdiction over mining and milling operations, as such operations are covered by the Mining Enforcement and Safety Administration of the Department of the Interior.

B. REGULATION OF OCCUPATIONAL EXPOSURE TO ASBESTOS

A standard for occupational exposure to asbestos was included in the initial promulgation of OSHA standards published on 29 May 1971 (36 FR 10466) pursuant to Section 6(a) of the Act, 29 U.S.C. 655(a). Derived from a 1969 federal standard issued under the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et. seq.), the original OSHA standard established an exposure limit of 12 fibers (greater than 5 microns in length) per milliliter or 2 million particles per cubic foot of air.

Pursuant to Section 6(c) of the Act, 29 U.S.C. 655(c), a petition for an emergency standard to control concentrations of asbestos dust was submitted to the Secretary by the Industrial Union Department of the AFL–CIO on 4 November 1971. As a result of that petition, an emergency temporary standard for occupational exposure to asbestos dust was published on 7 December 1971 (36 FR 23207). The emergency standard stated that: "The 8-hour time-weighted average airborne concentration of asbestos dust to which employees are exposed shall not exceed 5 fibers per milliliter greater than 5 microns in length, as determined by the membrane filter method at 400–450 × magnification (4 millimeter objective) phase contrast illumination. Concentrations above 5 fibers per milliliter, but not to exceed 10 fibers per millimeter may be permitted up to a total of 15 minutes in an hour for up to 5 hours in an 8-hour day."

On 12 January 1972 a proposal for a new permanent asbestos standard was published (37 FR 466), pursuant to Section 6(b) of the Act, 29 U.S.C. 655(b). The proposal included the exposure limitations of the emergency temporary standard plus additional engineering and administrative controls, work practices, and procedures for medical surveillance and monitoring.

The present standard was promulgated on 7 June 1972 (37 FR 11318). This standard which appears as 29 CFR 1910.-1001 [originally published as 29 CFR 1910.93a prior to recodification] established an 8-hour time weighted average (TWA) concentration exposure limit of five fibers longer than 5 micrometers per cubic centimeter of air, and a ceiling limitation against any exposure in excess of ten such fibers per cubic centimeter. The present standard further provided that, effective 1 July 1976, the 8-hour TWA is to be reduced to two fibers.

Pursuant to Section 6(f) of the Act, 29 U.S.C. 655(f), a petition for review of the Secretary's standard was filed with the United States Court of Appeals for the District of Columbia. The principal petitioners, the Industrial Union Department of the AFL–CIO, objecting to several substantive provisions of the standard, as well as to the grounds upon which such provisions were premised, requested that the Secretary's final decision be reversed. However, the Court affirmed the standard and the Secretary's judgement with two exceptions. *Industrial Union Department, AFL–CIO* v. *Hodgson*, 499 F. 2d 467 (CADC 1974).

The Court directed the Secretary to reconsider the effective date (1 July 1976) for the two-fiber standard and determine whether such date might be accelerated for all or some of the industries so affected. The Court also directed the Secretary to review the standard's recordkeeping provision requiring a three-year retention period for exposure monitoring records, and to reexamine whether such time period would be adequate to assure employee protection and prevention of asbestos related diseases.

Following the decision in *Industrial Union Department, AFL–CIO, supra*, OSHA reviewed the record of the asbestos rulemaking proceeding in 1972, particularly with respect to the issues remanded by the Court to the Secretary. It is OSHA's belief that the record of the 1972 asbestos standard proceeding is inadequate to properly resolve the two issues raised by the Court's remand and that in the interest of achieving the best feasible occupational health protection a new rulemaking proceeding should be initiated so that fresh and more detailed evidence may be developed regarding changes in industrial usage, compliance capabilities, and employee health practices which have occurred since the standard's promulgation over three years ago. In addition, OSHA believes that new research developments regarding the harmful effects of asbestos exposure, as well as advances in monitoring and protective technology, make re-examination of the previous standard's premises and general structure desirable. The proposal accordingly goes beyond the issues OSHA has been directed to consider by the Court, in the interest of effecting the Administration's continuing mandate to "set the standard which most adequately assures on the basis of the best available evidence, that no employee will material impairment of health or functional capacity" from occupational exposure to this substance.

II. TOXICOLOGICAL CONSIDERATIONS OF EXPOSURE TO ASBESTOS

A. EFFECTS OF ASBESTOS EXPOSURE

Asbestos, in its several commercial forms, has been shown in very recent time to be associated with the production of a variety of disease entities. These include:

1. Asbestosis: a diffuse, interstitial, nonmalignant, scarring of the lungs;
2. Bronchogenic carcinoma: a malignancy of the interior of the lung;
3. Mesothelioma: a diffuse malignancy of the lining of the chest cavity (pleural mesothelioma), or of the lining of the abdomen (peritoneal mesothelioma); and
4. Cancer of the stomach, colon, and rectum.

Asbestos may be evident, in its advanced stages, by characteristic manifestations on x-ray films, by restrictive pulmonary function, or by clinical signs, of finger clubbing or rales (dry, cracking sounds within the lung). Its most important symptom is dyspnea, or undue shortness of breath. The disease is progressive, even in the absence of further exposure, as those inhaled fibers which have been trapped within the lung continue their biological action. In its severe forms, death results from the inability of the body to obtain requisite oxygen or from the heart's failure to pump blood through the scarred lungs.

Mesotheliomas tumors are diffuse and spread rapidly throughout the cavity of origin. They have yet to be successfully cured by any types of treatment including chemotherapy, radiation, or surgery. Death usually results within a year of diagnosis. In the general population, mesothelioma is so rare that it has yet

to be separately coded in the international classification of diseases. It may account for one death in several thousand in the absence of an environmental or occupational asbestos exposure. In some groups of asbestos workers, it may account for one death in ten.

Once established, the other asbestos associated cancers differ little from those occurring in the general population, although there may be variations in the location of the primary site. Appropriate treatment and prognosis follow for the particular tumor. There is very limited long term survival from lung cancer therapy; and only somewhat better from treated cancer of the colon or rectum.

Asbestosis and asbestos cancer—whether it be lung cancer, pleural mesothelioma, peritoneal mesothelioma, cancer of the stomach, colon, rectum—usually do not become clinically evident until more than 20 years have passed from onset of exposure. This time-frame is now widely recognized. While some such cancers may appear during the second decade following onset of occupational exposure, peak incidence is often not noted until the 30-years-from-onset point, or later. This is true both with regular, long-term asbestos work, and following short-term, brief or intermittent exposures. While variations in the time of occurrence may depend upon intensity and duration of exposure, with heavier exposure often being associated with shorter latency periods, variations among individual cases make it impossible to predict the latency period for the risk of any particular worker.

B. PRIOR HISTORY

In 1971, in response to a petition of the Industrial Union Department, AFL-CIO, OSHA considered development of a standard regulating occupational exposure to asbestos. At that time, it had been well established that asbestosis was a major cause of disability and death among workers regularly exposed to asbestos dust in occupational circumstances in the United States, where the principal opportunity for such exposure occurred in the manufacture of asbestos products, and their use (Mancuso and Coulter, 1963; Selikoff, Churg and Hammond, 1964; Selikoff, 1965; Enterline and Kendrick, 1967; Selikoff, Hammond and Churg, 1968). The hazard of lung scarring resulting from the inhalation of asbestos ("asbestosis") had been a continuing problem from the time of its first identification (Departmental Committee, 1907; Cooke, 1924; Merewether and Price, 1931 and Dreessen, et al, 1938).

Data suggest that the incidence of asbestosis would be markedly diminished by reduction of occupational exposure to identified levels, in factories and during end product use. The British Occupational Hygiene Society reported in 1968 (Subcommittee on Asbestos, British Occupational Hygiene Society, 1968) that it had been given data by a single large asbestos textile mill which indicated that there was comparatively little clinical and/or roentgenological evidence of asbestosis at this factory in a survey completed in 1966. Recent measurements, using modern fiber-counting methods, were correlated with earlier dust assessments using other techniques. This allowed estimates of 4–15 fibers/ml to be made of worker's exposures since 1933 in the factory (Berry, 1973). These reported data carried considerable weight because information on both exposures and their effects were available. Moreover, all of the 290 individuals examined and x-rayed by the company medical department had been employed for at least 10 years; 112 had been employed for 20 years or more. There had thus been some opportunity to observe the incidence of asbestosis associated with longer exposure to asbestos, a factor of some importance since abnormal findings are often not seen until a significant period of time has elapsed from first exposure.

The Committee of the British Occupational Hygiene Society, in evaluating the information given to it on the recorded exposures in this plant and the infrequency of disease among the workers exposed to dust at these levels, came to the conclusion that, by lowering the permitted level still further, to 2 fibers/ml as a time-weighted average, employees could be permitted to work in such environments for a full working life-time (50 years) without substantial risk of developing asbestosis. It was calculated that workers exposed to 100 fiber-years/ml, that is, to 2 fibers/ml for 50 years, 4 fibers/ml for 25 years, or 10 fibers/ml for 10 years) would have a 1% risk of developing early signs of asbestosis.

The British Committee published in 1968 its report "Hygiene Standards for Chrysotile Asbestos" for the prevention of Asbestosis" in 1968. At the time, there were few data of comparable nature in the United States. While extensive clinical and epidemiological studies of the health effects of asbestos exposure on American workers had been made, comparatively few dust counts had been recorded during the years in which the exposure of these workers had occurred. Moreover, the dust counts that had been taken had utilized techniques other than the new membrane filter counting methods. For these reasons, NIOSH, in its evaluation of considerations relating to a standard for occupational exposure to asbestos (NIOSH, Criteria Document, 1971) stated that the recommendation of the British Occupational Hygiene Society was "given great weight in the development of this standard."

The asbestos standard set by OSHA in 1972 was thus based on a number of well-characterized observations. Lung scarring ("asbestosis") had been described as an important complication of occupational exposure to asbestos during the original descriptions of the problem in Great Britain. It had been found equally important in U.S. studies in the 1930's, and more recent investigations in the 1960's had demonstrated that it had continued as a serious problem. However, from the British Occupational Hygiene Society's evaluation of factory data relating the incidence of disease it appeared that the recognized, continuing important health hazard of asbestosis could be controlled on the basis of current observations.

It was known at the time that asbestosis was not the only disease that could occur as the result of asbestos exposure. Reports were available that workers so exposed were also at increased risk of developing several types of cancer, and these reports had demonstrated that such risks were present during the use of asbestos in the United States, in factory production of asbestos products, and in their subsequent use (Mancuso and Coulter, 1963; Selikoff, Churg and Hammond, 1964; Enterline and Kendrick, 1965). However, these data had not yet been fully evaluated in terms of the extent of risk in large parts of the asbestos industry in the United States and there were few data which would allow judgment concerning intensity and extent of exposure to asbestos in relation to the subsequent risk of asbestos-associated cancer. The British Occupational Hygiene Society's Committee had recognized this problem in Great Britain as well, but developed its standard based on information related to the risk of developing asbestosis, noting in its report (1968) that it was "not possible, at this time, to specify an air concentration which is known will be free of [cancer] risk. In setting its standard, OSHA hoped that reduction of exposure levels designed to prevent asbestosis would also serve to control the hazard of asbestosis-associated cancer. In this, it placed considerable reliance on an additional facet of the British experience. Concurrently, a published report from the same factory by its medical director and recognized statisticians (Knox, Holmes, Doll and Hill, 1968) had indicated that no significant increase in cancer mortality had been found among workers first employed in this plant subsequent to 1933, when the improved conditions mandated by the 1931 Factory Regulations came into effect.

Since the promulgation of the U.S. permanent asbestos standard, considerable new information has been forthcoming on the toxic effects of asbestos. This has been in two areas: in the widening spectrum of cancers associated with asbestos exposure, and in various manifestations of asbestos disease in individuals exposed to relatively low concentrations of dust. This extension of the initial data within recent years now requires refocusing of OSHA's concerns from a primary function of prevention of asbestosis with the expectation of concomitant reduction in the incidence of asbestos-associated cancer, to a new orientation, that of primary concern with the prevention of asbestos-cancer. There is an additional logic in this reorientation. Reduction of asbestos exposure to levels sufficient to prevent asbestosis is known, at least in some instances, to be insufficient to prevent asbestos-cancer. On the other hand, a reduction of asbestos exposure to an extent sufficient to prevent asbestos-associated cancer will also prevent asbestosis.

These new observations should not diminish OSHA's prior focus on the prevention of asbestosis, since significant pulmonary and/or pleural scarring have not been an important feature of low-level, short-term, intermittent exposure. Rather, it should emphasize the incomplete perspectives of the current standard derived from considerations concerned with prevention of asbestos-related lung scarring rather than those needed for the prevention of asbestos-associated cancer, particularly mesothelioma.

C. THE NEW EVIDENCE

(1) *Asbestosis.* Subsequent to the hearings on the current standard, uncertainty has arisen as to whether the existing British asbestos standard and the mandated 2 fiber/ml U.S. standard provides effective protection even against asbestosis. The data from Great Britain obtained in 1966 indicated that little clinical disease, including x-ray evidence of asbestosis, had occurred among workers first employed in that factory at some time after 1933, when important improvements in work practices had been achieved. In 1972, results of evaluation of new x-rays that had been taken in 1970, of the work force then employed in the same factory, were reported as showing that many now had abnormal findings either in the lung or in the coverings of the lung pleurae (Lewinsohn, 1972). There was thus a difference between the prevalence of abnormal x-ray findings among workers x-rayed in 1966 as reported to the British Occupational Hygiene Society, and evaluation of other x-rays of workers in the same factory four years later.

Additionally, clinical data are becoming available concerning asbestos lung scarring in individuals exposed at levels much lower than those of occupational circumstances. Among 210 family contacts of former asbestos factory workers, 38% have been reported to have x-ray changes characteristic of asbestos exposure (Anderson, Selikoff, Lilis and Daum, 1975).

(2) *Cancer.* In December 1972, important new information on the spectrum of asbestos cancers was presented at the Conference on the Biological Effects of Asbestos, sponsored by the International Agency for Research on Cancer of the World Health Organization. At this conference, and subsequently, data on large groups of asbestos workers became available (Selikoff, Hammond and Seidman, 1973; Enterline, 1972). As expected, the high risk of bronchogenic carcinoma and mesothelioma persisted among factory employees and insulators. Moreover, these later studies confirmed the excess gastrointestinal cancer that had been suggested earlier, and extended the spectrum of asbestos related cancers.

(a) *Lung cancer.* The most important cancer afflicting asbestos workers is cancer of the lung, although mesothelioma has attracted considerable attention because of the high frequency among asbestos workers and infrequent occurrence in the population as a whole.

In many groups of asbestos workers, approximately 20% of all deaths are caused by lung neoplasms. This has been true both among asbestos product factory workers (Selikoff, Hammond and Churg, 1972; and Nicholson, 1975) and among users of these products (Selikoff, Hammond and Seidman, 1973). The exact percentage varies with circumstances of exposure, age of the workers, duration of the workers' exposure and, perhaps most of all, according to the duration from the onset of their asbestos work history. In addition, the last several years have seen the discovery of another critical variable affecting the incidence of lung cancer among asbestos workers. In 1968, Selikoff, Hammond and Churg reported that lung cancer was not significantly increased in incidence among asbestos workers with no history of cigarette smoking, although when such history was present, the incidence of lung cancer increased markedly over what would be expected among other cigarette smokers, in the absence of asbestos exposure. Thus, these scientists calculated that an asbestos worker who smoked cigarettes had 92 times the risk of dying of lung cancer, as compared with like individuals without cigarette smoking or asbestos work. This finding has been confirmed by larger studies (Hammond and Selikoff, 1973) where, again, it was found that non-smoking asbestos workers had few lung cancers while those who smoked had much more lung cancer than would have been expected had they not been asbestos workers. Calculations suggest that cigarette-smoking asbestos workers have approximately eight times the risk of developing lung cancer compared to other smokers.

(b) *Pleural and peritoneal mesothelioma.* In 1960, Wagner, Sleggs and Marchand demonstrated an important association between asbestos exposure and pleural mesothelioma. This cancer, which appears to be unrelated to smoking, had previously been considered to be a very rare tumor. Numerous reports have confirmed the finding of Wagner and his colleagues that mesothelioma can be commonly associated with asbestos exposure. A subsequent report by Enticknap and Smither, 1964, concerning workers in a British asbestos factory demonstrated that the same tumor could be commonly found in the abdomen (peritoneal mesothelioma), as well as in the chest.

The exact risk of death of these invariably fatal neoplasms has not been as well defined as has lung cancer, although recording of cases from hospitals near one large asbestos factory has indicated that it must be very common indeed (Borow, Conston, Livornese and Schalet, 1973). Information available from the experience of asbestos insulation workers suggests that approximately five to seven percent of deaths may be due to this neoplasm (Hammond, Selikoff and Churg, 1965; Selikoff, Hammond and Seidman 1973). More recently, it has been suggested that this estimate is too low, on the basis of the experience of workers in a British asbestos factory, where calculations predicted that between 10 and 11 percent of deaths would be due to mesothelioma (Newhouse and Berry, 1975).

(c) *Gastro-intestinal cancer* Gastrointestinal cancers (cancer of the stomach, colon and rectum) are also increased in incidence among asbestos workers, but the increase is less pronounced than that of lung cancer or mesothelioma. A number of studies now indicate that the increase is on the order of two or three times the number of expected tumors (Selikoff, Hammond and Seidman, 1973; Elmes, 1968). Although this increased risk is relatively limited, especially when compared with lung cancer and mesothelioma, it is nevertheless of considerable importance since a two- or three-fold increase in such common tumors becomes an important cause of death for the workers involved.

It has been suggested that other tumors are also increased in incidence among asbestos workers, particularly cancers of the larynx (Stell and McGill, 1972; Newhouse, 1973) and neoplasms of the oropharynx (Selikoff, Hammond and Churg, 1970), and of the esophagus (Selikoff, Hammond, and Seidman, 1973). However, data concerning these neoplasms are less extensive than for lung cancer, mesothelioma and gastro-intestinal cancer and further experiences are awaited. In any case, they are not very common tumors in general and any increase does not weigh heavily on the overall cancer risk of asbestos workers.

Considering all neoplasms, among some groups of asbestos workers, employed either in asbestos factory work or in the use of asbestos products, as much as 40 to 45 percent of all deaths have been due to one or another type of cancer, an approximately three-fold or four-fold increase.

Of significant importance, new data have recently been made available concerning the cancer risk of workers at the textile mill reviewed for the British standard, including those workers first employed after 1933 (Howard, Kinlen, Lewinsohn, Peto and Doll, 1975). It was found that there was excess mortality from lung cancer among those workers who entered scheduled areas after 1 January 1933. There was "clear evidence of some excess of lung cancer and respiratory deaths among those first exposed between 1933 and 1950." Equally important was the finding that "there still appears to be an excess of deaths due to lung cancer after 15 or more years' exposure" even among those first exposed in 1951 and subsequently. Indeed, it is known that mesothelioma deaths have occurred among the specific group of 290 workers whose experience prior to 1966 had led to the development of the current standard, as detailed above (Brody, J. E., 1974).

There are further data indicating the necessity for revaluation of the asbestos standard, albeit less directly derived from asbestos worker exposure. This information is derived from occurrence of asbestos cancer among individuals ex-

posed to low levels of asbestos, as in environmental circumstances, or to brief or intermittent exposures to higher levels.

Analysis of the history of asbestos exposure among individuals in a large series of cases of mesothelioma in Great Britain and South Africa have provided evidence that brief or intermittent exposure to asbestos may, after the passage of decades, result in mesothelioma (Greenberg and Lloyd Davies, 1974; Webster, 1973). In such circumstances, it appears that the lifetime exposure was less than the 100 fiber-years/ml envisaged by the current standard. The same discrepancy between present projected exposures and the risk of asbestos cancer exists when considering cases of mesothelioma resulting from household contact to asbestos among members of families of asbestos workers (Lillington, 1974) or among residents living in the vicinity of asbestos plants.

Of considerable industrial importance, has been the recent description of asbestos disease among shipbuilding and ship repair workers, few of whom actually work with asbestos, but many of whom were, in the past, inadvertently exposed to the asbestos dust resulting from the use of asbestos products by a relatively few of their work mates. In 1968, Harries of the Royal Navy reported cases of mesothelioma among shipyard workers at the Royal Navy dockyard in Devonport, in trades which did not directly involve worker exposure to asbestos, but in which there had been occasional opportunity for exposure merely by virtue of working in the same areas. This original finding has been widely confirmed and numerous cases of mesothelioma have since been reported in former shipyard workers (Whitwell and Rawcliffe, 1970; McEwen et al, 1970; Stumphius, 1968; Greenberg and Lloyd Davies, 1974). Studies of populations of current shipyard workers have shown much radiological evidence of asbestos abnormalities among workers in trades only indirectly exposed to asbestos in the yards (Sheers and Templeton, 1969; Fletcher, 1972).

Gillam et al (1975), studying the mortality and reviewing the chest x-rays of 439 underground metal miners exposed to an asbestiform mineral, found three times the risk of malignant respiratory disease than expected. The fiber concentrations averaged 0.24 fibers/ml.

Further, evidence has indicated that asbestos also acts as a lung carcinogen at levels much below those which will produce asbestosis. Two surveys of shipyard workers who had x-ray evidence of pleural plaques, but generally not of pulmonary fibrosis, showed a 2.5-fold excess risk of death from lung cancer and high risk of mesothelioma. (Fletcher, 1972; Edge, 1975). In a study of the mortality experience of a large U.S. asbestos products manufacturing facility, it was found that workers in low-dust areas, with a minimum risk of death from asbestosis, had the same high risk of death from various cancers as workers in dustier areas (Nicholson, 1975).

III. Certain Considerations Concerning Carcinogenicity

In the case of asbestos, we are dealing with a substance that poses a range of health risks to the working population. These include the threat of cancer, as well as asbestosis. In considering the controversial issue of carcinogenicity, OSHA is relying upon not only the new data reviewed above, but the leading scientific principles and opinions believed to reflect the research conclusions of international cancer experts, which were developed since or not known to OSHA at the time that the original standard was promulgated.

A. The latency of carcinogenic effects

In humans, the latency period for chemical carcinogens may well extend between 20 to 40 or more years. Analogous periods exist for test animals. This means that the diesase may undergo a long development before a tumor is actually detected. At that point, it has reached a stage where removal of the worker from the workplace may be of no avail and where treatment may be extremely difficult, if not futile. Prudent policy would therefore seem to indicate that every reasonable measure should be taken to eliminate human exposure to chemical compounds as soon as their carcinogenic nature is identified.

B. Variability in individual susceptibility in relation to the concept of a threshold

Cancer development may be influenced by such factors as the differing susceptibility of various body organs. In animal studies it has been found that individual variability in response to carcinogens is great depending upon factors such as age, sex, hormonal status, diet, and genetic factors. Thus, in the working population, certain groups, such as those already biologically compromised, may be more susceptible than other groups.

C. A "threshold" limit

Because of the variability of individual response to carcinogens and other factors, the concept of a "no effect" or "threshold level" may have little real significance on the basis of existing knowledge. While some level, below which exposure to a carcinogen does not cause cancer, may conceivably exist for any one individual, other individuals in the working population may have cancer induced by doses so low as to be effectively zero. This is not to say that researchers will never find a threshold level for a carcinogenic substance, but it does mean that the threshold concept for carcinogens is, at present, more a matter of responsible regulatory policy than a precise, scientific determination.

These theoretical concepts have a bearing on the asbestos issue, particularly as to the question of the existence, or nonexistence, of a threshold level of carcinogenic effect. A "no effect" level theoretically may exist, but it has not been demonstrated.

In previous rulemaking proceedings, OSHA has considered these issues and determined that in the absence of evidence to establish a safe level on the basis of present knowledge, employee exposure must be reduced as low as feasible. (See the preambles to the carcinogen standards 29 CFR 1910.1003–10016 (39 FR 3758); the vinyl chloride standard 29 CFR 1910.1018 (39 FR 35892); the coke oven emissions proposal (40 FR 32268), and the beryllium proposal.)

OSHA welcomes all views and comments on these subjects.

IV. Pertinent Legal Authority

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every working man and woman. One means prescribed by Congress to achieve this goal is the authority vested in the Secretary of Labor to set mandatory safety and health standards pursuant to Section 6(b) of the Act, 29 U.S.C. 655(b). The standards setting process permits the participation of interested parties in the consideration of medical data, industrial processes and other factors relevant to the identification of hazards and the selection of appropriate control measures. Occupational safety and health standards provide notice of the permitted exposure levels and provide a basis for ensuring the existence of safe and healthful workplaces. Section 6(b)(5) of the Act, 29 U.S.C. 655(b)(5), provides that:

> The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws.

Sections 2(b)(5) and (6), 20, 21, 22, and 24 of the Act reflect Congress recognition that conclusive medical or scientific evidence, including causative factors, epidemiological studies or dose-response data, may not exist for many toxic materials or harmful physical agents. Nevertheless, standards cannot be postponed because definitive medical or scientific evidence is not currently available. Indeed, while final standards are to be based on the best available evidence, the legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." H.Rpt. No. 91–1291, 91st Cong., 2d Session, p. 18 (1970). This Congressional judgment has been supported by the

courts which have reviewed standards promulgated under the Act. For instance, in sustaining the standard for occupational exposure to vinyl chloride (29 CFR 1910.1017), the U.S. Court of Appeals for the Second Circuit stated that, "It remains the duty of the Secretary to act to protect the working man, and to act even in circumstances where existing methodology or research is deficient." *The Society of the Plastics Industry, Inc.* v. *United States Department of Labor*, 509 F. 2d 1301 (C.A. 2 1975), *cert denied, sub nom Firestone Plastics Co.* v *United States Department of Labor*, —— U.S. ——, 43 U.S.L.W. 3525 (27 May 1975). A similar rationale was applied by the U.S. Court of Appeals for the District of Columbia in reviewing the standard for occupational exposure to asbestos (29 CFR 1910.1001, but appearing at the time of review as 29 CFR 1910.93a). The Court stated:

> Some of the questions involved in the promulgation of these standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision-making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual judgments. *Industrial Union Department, AFL–CIO v Hodgson, supra*, 499 F. 2d at 474.

In setting standards, the Secretary is expressly required to consider the feasibility of the proposed standards. S. Rpt. No. 91–1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *The Society of the Plastics Industry, Inc.* v *United States, supra*, 509 F. 2d at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, and appropriate medical examinations. Where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employee (Section 6(b)(7) of the Act). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (Section 8(c) of the Act).

V. The Proposal.

The development of this proposal is premised upon: (1) recent medical and scientific evidence as to increased health hazards associated with occupational exposure to asbestos and (2) the experience gained by OSHA through three years of enforcement and administration of the current asbestos standard.

The following is a summary and analysis of the significant issues contained in the text of the proposed standard for occupational exposure to asbestos.

A. Scope and Application

The standard, as revised, would continue to apply to all workplaces where occupational exposure to asbestos is present, but would exclude the construction industry.

It is OSHA's intention to develop and propose a separate revision to the existing asbestos standard for the construction industry. Appproximately three-fourths of all asbestos products in 1972 were used in the construction industry. In addition, the uniqueness of the construction industry itself (viz., the multiplicity of non-fixed workplaces, and the utilization of highly transient workforces) strongly suggests separate treatment. These structural differences were reflected in the 17–18 September 1975 deliberations of the OSHA Advisory Committee on Construction Safety and Health.

Although OSHA believes that health hazards faced by employees in the construction industry with regard to occupational exposure to asbestos are similar to those faced by their counterparts in other covered employments, OSHA recognizes that alternative administrative and engineering controls may be more appropriate and feasible for the construction industry. Therefore, OSHA intends to consult with the Construction Advisory Committee in order to further explore such alternatives. Upon publication of the proposal to revise the existing asbestos standard for the construction industry, OSHA will consider the possibility of consolidated hearings on that proposal and the proposal contained herein for all other covered employments.

OSHA is aware that certain provisions of this proposal, such as medical surveillance and the extended retention period for medical and monitoring records, may pose special problems to some employers, especially those who have small numbers of employees, operate with non-fixed places of employment, or use workforces which are highly transient in nature. This awareness has been expressed by the Department of Labor in a statement submitted to the House Subcommittee on Environmental Problems Affecting Small Business on 26 June 1975, as follows:

> It has become increasingly evident that the combined body of Federal regulations imposes a substantial, and to some extent, unnecessary burden upon employers, particularly those who run small businesses. While most of these requirements serve a necessary and useful purpose, a definite potential exists for duplication, conflicting standards, and inappropriate recordkeeping requirements. In an effort to eliminate problems where any exist in the Department of Labor, I have requested my agency heads to assess the small business impact of the laws they administer and determine what can be done to ease the burden on the small employer, while still assuring compliance with the law.

Although it clear that OSHA's first and prime responsibility is to assure employees safe and healthful places of employment, the Act and its legislative history recognize that economic and technological feasibility are legitimate factors to be considered in the setting of occupational safety and health standards.

In addition, the Act explicitly takes cognizance of its impact upon affected small business, specifically with respect to any recordkeeping requirements which are imposed. Pursuant to section 8(d) of the Act, OSHA is exploring methods of reducing, to the maximum extent possible, the administrative and economic burdens of the proposal's various information gathering requirements.

While the proposal does not address itself to specific alternatives, OSHA invites comments concerning options which would both provide full protection to affected employees and at the same time would minimize the administrative and economic burden on affected employers—especially those with small numbers of employees, non-fixed workplaces, or highly transient workforces.

B. Discussion of Major Provisions

OSHA recognizes that, since the promulgation of the current standard, several distinguished individuals and many agencies, both public and private, have made valuable contributions to the field of toxic substances generally, and asbestos specifically.

Exposure Levels. Recently, the National Institute for Occupational Safety and Health (NIOSH) has informed OSHA that it is currently reviewing data which may provide significant information with respect to the margin of safety afforded by the existing asbestos exposure limits. In a memorandum dated 29 September 1975 to the Deputy Assistant Secretary of Labor for OSHA, the Director of NIOSH stated:

> Multiple and consistent epidemiological studies leave virtually no doubt that asbestos is carcinogenic to man.

OSHA also believes sufficient medical and scientific evidence has now been accumulated to warrant the designation of asbestos as a human carcinogen. Therefore, it is incumbent upon OSHA to propose the establishment of safeguards to protect the lives of affected workers.

OSHA deems it appropriate to propose that the 8-hour exposure limit (TWA) be lowered to 500,000 fibers per cubic meter (0.5 asbestos fibers per cubic centimeter), and that the ceiling exposure limit be 5,000,000 asbestos fibers per cubic meter (5 asbestos fibers per cubic centimeter) for any period up to 15 minutes. OSHA recognizes that there is no assurance of a safe exposure for a substance with known carcinogenic property, in this case asbestos, and thus there should be no detectable concentrations. However, the Act requires that the Secretary establish standards to the extent feasible, and therefore the Secretary must take into consideration technological and economic factors.

OSHA believes that it may be appropriate to postpone the effective date of the proposed exposure level because of the existence of problems of feasibility of a technological and economic nature. OSHA expressly invites comments on this issue, including comment on the ap-

propriateness of a phased schedule for compliance with any new exposure level, based on such feasibility factors. In this respect, OSHA particularly invites comments on the structure of the asbestos industry generally including factors distinguishing particular sub-industries in terms of methods of asbestos use and capabilities of compliance.

Definitions. OSHA believes the present standard's definitions of "asbestos" and "asbestos fiber" should be revised by adding to the existing definition of "asbestos" and phrase "and every product containing any of these minerals", and by substituting the phrase "particulate form of asbestos", for the words "asbestos fibers" in the definition of "asbestos fiber." This reflects OSHA's concern for the morphology and toxicity of the regulated substance rather than its geologic or mineralogic origin. The proposed definition of "asbestos fiber" would also add to the current specification (minimum length 5 micrometers), a minimum aspect ratio of 3 to 1 and a maximum diameter of 5 micrometers. Such a definition is consistent with the one appearing in the "Recommended Procedures for Sampling and Counting Asbestos Fibers (Joint AIHA Vol. 36, No. 2, February 1975, pp. 83–90). In addition, air samples are presently evaluated by OSHA in terms of the concentration of asbestos fibers greater than 5 micrometers in length, and with a length to width aspect ratio of at least 3–to–1. Thus, the definition as revised will set specific parameters for asbestos fibers which are known to be respirable, and which can be counted using phase contrast microscopy.

OSHA is aware of scientific exploration into the area of pathological response to fiber morphology, and is currently working on several projects with other agencies, including NIOSH, to provide additional knowledge of this area.

Recordkeeping. OSHA proposes to extend the period for employer retention of monitoring records from three years to forty years, or for the duration of employment plus twenty years, whichever is longer. As the Court in *Industrial Union Department, AFL–CIO, supra,* 499 F. 2d at 487 pointed out, although the existing three-year period is adequate for OSHA's enforcement purposes, it may not be sufficient for the development of essential data regarding the causes of asbestos related diseases, some of which appear to have latency periods of up to forty years. The extended period for retention, with resultant data accumulation, will be vital to epidemiological and diagnostic investigations to determine such things as dose-response relationships in diseases caused by exposure to asbestos.

OSHA believes that it is essential to such scientific investigations that both medical and monitoring records be retained for a similar period of time. Therefore, OSHA has proposed that the retention period for employee medical records be extended from the present twenty years to a period commensurate with that for monitoring records, i.e., forty years, or for the duration monitoring records, i.e., forty years, or for the duration of employment plus twenty years, whichever is longer.

The proposal also outlines specific items of data which would be recorded with regard to employee exposure monitoring and medical examinations. OSHA views these requirements as the minimum necessary to develop the causal relationships between exposures and pathology. OSHA believes these modifications to be consistent with the Court's direction, as well as with the record-keeping requirements of section 8(c) of the Act, 29 U.S.C. 657(c).

The proposal would also add a requirement concerning the transfer of monitoring and medical records (1) when one employer succeeds another, or (2) when an employer ceases to do business, without a successor. An employer succeeding another would be required to receive and maintain those records which the predecessor would have been required to keep. Employers terminating their businesses without successors would be required to send their records to NIOSH.

Monitoring Procedure. The proposal also revises monitoring requirements for initial occupational exposure to asbestos, and increases the frequency for subsequent monitoring in order to provide a more adequate basis for relating employees's health records to their exposure levels. The adoption of this proposal would revoke the current specific requirements for both personal and environmental monitorings as well as the specific provisions for the collection of samples. Such revocation, and the permission to discontinue monitoring after two consecutive measurements below the permissible exposure levels would allow the exercise of some judgment as to when and how monitoring would have to be performed. An employer would be expected to exercise this judgment with an adequate appreciation of the purpose of monitoring, and the possible grave consequences of over-exposure.

Diagnostic Testing. The proposal also adds sputum cytology as a diagnostic test. The use of sputum cytology is proposed only for those workers who are 45 years of age or older or who have been employed in occupations involving exposure to asbestos 10 years or more. Although there has been some concern as to the value of sputum cytology, OSHA believes its usage for special high risk groups can be beneficial.

Regulated areas. The proposal requires that regulated areas be established, that access be limited to authorized persons, and that a roster of persons authorized to enter be made daily and maintained for at least 40 years, or for the duration of employment plus 20 years, whichever is longer. One purpose of establishing regulated areas is to limit the exposure to as few people as possible. OSHA recognizes that in certain non-fixed workplaces this requirement would pose special problems. Therefore, comments relating to alternative procedures applicable to affected employers would be welcomed.

Sampling of Ceiling Concentrations. The proposal provides for a sampling period up to 15 minutes for the determination of ceiling concentrations. The present standard contains no time parameters for measurement of the ceiling limit. A period of up to fifteen minutes is proposed because it has been found to be practical and is currently used by OSHA in determining compliance.

Respirators. The proposal revises the requirements for respirators, referencing NIOSH as the current approving authority and listing those respirators allowed for various air concentrations based on known protection factors. This is consistent with the selection of respirators recently developed for use in the Joint OSHA–NIOSH Standards Completion Project. The proposed revision will not render any existing respirators obsolete, but rather will enable a greater variety of respirators to be used under different conditions of exposure.

Refusal of Medical Exams. The proposed revision also contains a procedure to be followed by the employer in the event that an employee refuses to undergo any medical examination which must be offered. The procedure involves informing the employee of the potential risks that are incurred by his refusal to be examined and obtaining a signed statement from the employee attesting to the fact that the employee has been informed of the potential risks, but still does not wish to be examined. It is not OSHA's intent to encourage employees to avoid medical examinations. On the contrary, OSHA believes that positive action taken by the employer to inform employees of the risks involved will encourage employees to undergo such examinations.

Job Reassignment. The proposal also retains a provision from the existing standard (29 CFR 1910.1001(d)(2)(iv)(c)) which requires job rotation or transfer without loss of pay (where such positions are available) for employees found unable to function normally as a result of having to wear one of the prescribed respirators. OSHA is aware that the concept has been the subject of considerable controversy. However, actual labor management experience as to the operation of this provision has yet to be reviewed by OSHA. Therefore, OSHA would welcome comments from interested parties concerning not only the effectiveness of the provision, but as to the relative merits of the concept itself. Based on the receipt of such information, OSHA will reconsider the provision's applicability and scope. If warranted, OSHA may consider job reassignment based on medical unsuitability, per se, as the subject for a separate rulemaking procedure.

Employee Information and Training. Information and training are essential for the protection of employees, because employees can do much to protect themselves if they are informed of the nature of the hazards in the workplace. To be effective, however, an employer education system must apprise employees of the specific hazards associated with the work environment. For this reason, the

employer would be required to inform each employee assigned to a regulated area about the nature of asbestos-related health problems, the necessity for exposure control, the work practices and engineering controls associated with the employee's job assignment, and the medical surveillance programs.

Signs and labels. Due to the hazardous nature of asbestos, OSHA believes that emphasis should be placed on warning employees and other persons about the dangers of exposure. For this reason, the proposed standard includes a section on signs for regulated areas and labels for products containing asbestos or their containers.

The signs to be posted at regulated areas inform employees of the carcinogenic hazard of asbestos and alert them to the fact that only persons authorized by the employer should enter the area.

Hygiene facilities and practices. The proposal provides that all employees working in regulated areas must be required to wash hands, face, and forearms before eating, drinking, or smoking. Finally, smoking, nonfood chewing products, drinking, and eating are prohibited in regulated areas. In addition employees working in regulated areas are required to shower before leaving at the end of the work shift. This section of the proposed standard also requires that the employer provide for the hygiene facilities such as change rooms and showers in accordance with 29 CFR 1910.141.

Appendices. In addition, the proposal introduces appendices to be published with the standards as information and guidance.

Appendix A (Substance Safety Data Sheet) provides information on the general nature of asbestos, exposure limits and general precautions regarding its usage. *Appendix B* (substance Technical Guidelines) provides technical information on asbestos minerals, recommendations for monitoring, and general workpractices for clean-up operations. Two guides for workpractices for certain operations are included as enclosures. The first deals with loading, unloading, and storing asbestos cargo. The second provides guidance to employers who introduce asbestos into manufacturing operations. *Appendix C* (Medical Surveillance Guidelines) provides information considered to be useful and appropriate to the examining physician.

VI. Environmental Impact Assessment

The National Environmental Policy Act of 1969 (NEPA), (42, U.S.C. 4321–4343), requires, among other things, that Federal agencies assess their proposed major actions, including rulemaking, to determine whether a significant impact on the quality of the human environment may result. Furthermore, 29 CFR 1999.3 (d) requires that where OSHA determines that an environmental impact statement should be prepared, the determination to do so must be published in the Federal Register. Accordingly, it is hereby noticed that OSHA intends to prepare an environmental impact statement on the proposed revision to the standard for occupational exposure to asbestos.

Once the draft environmental impact statement has been prepared, a copy of it will be made available by OSHA to any member of the public who requests an opportunity to comment on it. Any person or agency submitting comments on it to OSHA must at the same time forward five copies of the comments to the Council on Environmental Quality (CEQ), 772 Jackson Place, N.W., Washington, D.C. A 45-day period will be allowed for the submission of comments after the publication of the notice of availability of the draft environmental impact statement. The draft statement will be available where practicable, at least 15 days prior to a public hearing on the proposed standard. The environmental impact of the proposal would be an appropriate issue at such hearing.

In addition, comments that may be helpful in preparing the draft environmental impact statement on the proposed revision are solicited. Any person having relevant information or data is invited to submit it to David R. Bell, Office of Standards Development, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room N–3669, Washington, D.C. 20210, by November 10, 1975. Comments submitted in regard to the proposed standard need not be resubmitted. All material received on environmental impact will be available for public inspection and copying at the above address.

VII. Public Participation

Interested persons are invited to comment on the proposed standard on or before December 8, 1975. Written data, views and arguments concerning the proposal must be submitted in quadruplicate to the Docket Officer, Docket H–033, U.S. Department of Labor, Room N–3620, 200 Constitution Avenue, N.W., Washington, D.C. 20210 Telephone 202/523–8076. Written submissions must clearly identify the provisions of the proposal addressed and the position taken with respect to each such provision. The data, views, and arguments will be available for public inspection and copying at the above address. All written submissions received will be made part of the record.

Pursuant to 20 CFR 1911.11 (b) and (c), interested persons may, in addition to filing written comments as provided above, file objections to the proposal and request an informal hearing with respect thereto, in accordance with the following conditions:

1. The objections must include the name and address of the objector;
2. The objections must be postmarked on or before December 8, 1975;
3. The objections must specify with particularity the provision of the proposed rule to which objection is taken, and must state the grounds therefor;
4. Each objection must be separately stated and numbered; and
5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

In addition to the comments invited above concerning the proposal and its environmental impact, OSHA hereby solicits comments from interested parties regarding the potential inflationary impact of the proposed revision. Comments must be submitted in accordance with the above requirements for comments on the proposal and may be directed toward any or all of the following subjects:

1. Cost impact on consumers, businesses, markets, or Federal, State, or local government;
2. Effect on the productivity of wage earners, businesses, or government;
3. Effect on competition;
4. Effect on supplies of important materials, producers, or services;
5. Effect on employment; and
6. Effect on energy supply or demand.

It is OSHA's intention to prepare an inflationary impact statement and analysis, if appropriate, or a certification that the revision has no substantial inflationary impact, and to make such statement or certification available at least 30 days prior to any public hearings on the proposed revision. The potential inflationary impact of the proposed revision would be an appropriate issue at such hearing.

This procedure has been concurred with by the Council on Wage and Price Stability in accordance with the Office of Management and Budget Circular A–107 (28 January 1975), issued pursuant to Executive Order 11821.

Accordingly, pursuant to sections 6(b) and 8(c) of the Occupational Safety and Health Act (84 Stat. 1593, 1599, 29 U.S.C. 655, 657) and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29 of the CFR as set forth below.

Signed in Washington, D.C., this 30th day of September 1975.

John T. Dunlop,
Secretary of Labor.

1. Mancuso, T. F. and E. J. Coulter: Methodology In Industrial Health Studies. Arch Environ Health 6:210–226, (1963).

2. Selikoff, I. J., Churg, J. and E. C. Hammond: Asbestos Exposure and Neoplasia. J.A.M.A. 188:22–26, (1964).

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Section 1910.1001 is proposed to be revised to read as follows:

§ 1910.1001 Asbestos.

(a) *Scope and application.* This section applies to every place of employment where asbestos or a product containing asbestos is manufactured, processed, packaged, stored, applied, used or otherwise handled. However, this section does not apply to construction work within the scope of § 1910.12 of this part nor to working conditions of employees with respect to which other Federal agencies exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

(b) *Definitions.* For the purpose of this section—

(1) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite, and every product containing any of these minerals.

(2) "Asbestos fiber" means a particulate form of asbestos, longer than 5 micrometers, with a length-to-diameter ratio of at least 3 to 1, and with a maximum diameter of 5 micrometers.

(3) "Emergency" means an unforeseeable and unexpected occurrence likely to release airborne concentrations of asbestos fibers in excess of 5 fibers per cubic centimeter of air, such as, but not limited to, failure of equipment or control devices, and rupture of containers.

(4) "Authorized person" means a person required by his duties to enter a regulated area and authorized to do so by his employer, this section, or the Occupational Safety and Health Act of 1970. The phrase includes a representative of employees who is designated to observe monitoring procedures.

(5) "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or any of his designees.

(6) "Director" means the Director of the National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or any of its designees.

(c) *Permissible exposure to airborne concentrations of asbestos fibers*—(1) *8-hour time-weighted average concentration.* No employee may be exposed to an 8-hour time-weighted average airborne concentration of asbestos fibers in excess of 0.5 fiber per cubic centimeter (or 500,000 fibers per cubic meter) of air, as determined on the basis of a 40-hour work week and by the method prescribed in paragraph (e)(3) of this section.

(2) *Ceiling concentration.* No employee may be exposed to airborne concentrations of asbestos fibers in excess of 5 fibers per cubic centimeter (or 5 million fibers per cubic meter) of air, as determined over a period up to 15 minutes, by the method prescribed in paragraph (e)(3) of this section.

(d) *Regulated areas.* Any work area where a person may be exposed to airborne concentrations of asbestos fibers in excess of either of the limits imposed by paragraph (c) of this section shall be designated a regulated area. Only authorized persons may be allowed to enter such an area. A daily roster of all persons entering a regulated area shall be made and maintained.

(e) *Monitoring.* The purpose of all monitoring required by this paragraph is to measure accurately the airborne concentrations of asbestos fibers in a workplace to which employees would be exposed if they worked in the area without the use of personal protective equipment, such as respirators. Monitoring shall be performed in a manner reasonably calculated to satisfy this purpose. It may not be necessary to monitor every employee exposed to airborne concentrations of asbestos fibers in order to satisfy the purposes of this paragraph. For instance, the employee, or his working locations, likely to be exposed to the highest airborne concentration of asbestos fibers in a work area may be deemed a representative of all the employees in the area. An employee in one shift may be deemed a representative of all employees in other shifts who, because they perform the same operation or are stationery in the same area, or for other relevant reasons, may reasonably be considered to have the same level of exposure as the representative employee. However, the results of a monitoring of a representative employee shall be deemed to apply, and to indicate the exposure level of, all employees represented.

(1) *Initial.* Every employer shall cause every place of employment where asbestos fibers may be released to be monitored in such a manner as to determine whether employees are exposed to concentrations of asbestos fibers in excess of either of the two limits prescribed in paragraph (c) of this section. If either limit is exceeded, the employer shall immediately undertake a compliance program in accordance with paragraph (f) of this section.

(2) *Frequency.* (i) If monitoring shows that an employee's exposure is above either limit prescribed in paragraph (c) of this section, the monitoring shall be repeated every month, except as otherwise provided in paragraph (e)(2)(ii) of this section.

(ii) If monitoring shows that an employee's exposure is below both limits prescribed in paragraph (c) of this section, the monitoring shall be repeated every three months, except as otherwise provided in paragraph (e)(2)(i) or (e)(2)(iii), or (e)(2)(iv) of this section.

(iii) If two consecutive monitorings made at least 5 days, but not more than 3 months apart, show that an employee's exposure is, below both limits prescribed in paragraph (c) of this section, monitoring need not be repeated, except as otherwise provided in paragraph (e)(2)(iv) of this section.

(iv) Whenever an employer has reason to believe that an employee's level of exposure has changed because of a change in production, process, controls, or other relevant factors, the employee shall be monitored as soon as practicable, and thereafter paragraphs (e)(2)(i), (e)(2)(ii), or (e)(2)(iii) shall apply.

(3) Method of measurement. All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400–450 × (magnification) (4 millimeter objective) with phase contrast illumination.

(4) *Employee notification.* (i) Within five (5) working days after the receipt of the measurement results, the employer shall notify each employee in writing of the results concerning the employee's exposure.

(ii) Where the results reveal an employee's exposure to be above either of the permissible exposure limits, such notification shall also include a statement of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(f) *Methods of compliance.* Employee exposure to asbestos fibers shall be controlled to or below the permissible exposure limits by engineering controls, work practices, and personal protection controls.

(1) *Engineering and work practice controls.* Engineering controls shall be instituted immediately to reduce employee exposure to or below the permissible exposure limits, except to the extent that such controls are not feasible. Where engineering controls which can be instituted immediately are not sufficient to reduce exposure to or below the permissible exposure limits, they shall nonetheless be used to reduce exposure to the lowest practicable level, and shall be supplemented by the use of work practice controls.

(2) *Personal protection controls.* Where engineering and work practice controls are not sufficient to reduce employee exposure to or below the permissible exposure limits, they shall nonetheless be used to reduce exposure to the lowest possible level, and shall be supplemented by the use of respirators, in accordance with paragraph (g) of this section.

(3) *Particular tools.* All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in paragraph (c) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems.

(4) *Work practices.* (i) *Wet methods.* Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in paragraph (c) of this section, unless the usefulness of the product would be diminished thereby.

(ii) *Particular products and operations.* (A) No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in paragraph (c) of this section. (B) Employees engaged in the spraying of asbestos, and in the removal of asbestos insulation or coverings shall be provided with respiratory equipment and protective clothing in accordance with paragraph (g) of this section.

(5) *Local exhaust ventilation.* Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2–1971, which is incorporated by reference herein. (See § 1910.6 of this part concerning the availability of ANSI Z9.2–1971, and the maintenance of a historic file in connection therewith.)

(6) *Mechanical ventilation.* When mechanical ventilation is used to control exposure, measurements which demonstrate the effectiveness of the system to control the exposure, such as capture velocity, duct velocity, or static pressure, shall be made at least every 3 months. Measurements of the system's effectiveness to control exposure shall also be made within 5 days of any change in production, process, or control which might result in any change in employee exposure.

(7) *Compliance program.* (i) Every employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limits solely by means of engineering and work practice controls.

(ii) The written program shall include:

(A) A description of each exposed operation, e.g., crew size, operating procedures, and maintenance practices;

(B) Engineering plans and studies used to determine the controls for the operation;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) Monitoring data;

(E) A detailed schedule for implementation of the engineering controls and work practices that cannot be implemented immediately, as well as for the development and implementation of any additional engineering and work practices necessary to meet the permissible exposure limits;

(F) Other relevant information.

(iii) Written plans for compliance programs shall be submitted, upon request to the Assistant Secretary and Director, and shall be available at the worksite for examination and copying by the Assistant Secretary and the Director. Such written plans shall be revised and updated at least every six months to reflect the current status of the program.

(g) *Respiratory protection.* (1) *Use.* Respirators shall be used where required under this section. Compliance with the permissible exposure limits may not be achieved by the use of respirators, except:

(i) During the time period necessary to install engineering or work practice controls; or

(ii) In work situations in which engineering controls and supplemental work practice controls are insufficient to reduce exposure to or below the permissible exposure limits; or

(iii) In emergencies.

(2) *Selection.* Where respirators are permitted by this section, the employer shall select them from among those approved by the National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, pursuant to 30 CFR Part 11, and in accordance with Table 1 set out below.

TABLE 1

RESPIRATORY PROTECTION AGAINST ASBESTOS FIBERS

Concentration of asbestos	*Required respirator*
Over 2,000 times the applicable exposure limit prescribed in paragraph (c) of this section.	(A) Self-contained breathing apparatus with a full facepiece in pressure-demand (positive pressure) mode.
Up to 2,000 times the applicable exposure limit prescribed in paragraph (c) of this section.	(A) A type C supplied air respirator with a full facepiece operated in pressure-demand or other positive pressure-mode, or with a full facepiece, hood, or helmet operated in continuous flow mode.
Up to 1,000 times the applicable exposure limit prescribed in paragraph (c) of this section.	(A) A type C supplied air repirators operated in pressure-demand or other positive pressure or continuous flow mode; or (B) A powered air purifying respirator with a high efficiency particulate filter;[1] (C) self contained breathing apparatus in pressure demand (positive pressure) mode.
Up to 50 times the applicable exposure limit prescribed in paragraph (c) of this section.	(A) A high efficiency particulate filter respirator with a full facepiece; or (B) Any supplied air respirator with a full facepiece; or (C) Any self-contained breathing apparatus with a full facepiece.
Up to 10 times the applicable exposure limit prescribed in paragraph (c) of this section.	(A) Any air purifying respirator with replaceable particulate filter; or (B) Any single use respirator with or without valve; or (C) Any supplied air respirator; or (D) Any self-contained breathing apparatus.

[1] High efficiency filter—99.97 percent efficient against 0.3 micron size dioctylphthalate (DOP).

(3) *Respirator program.* (i) Respirators shall be used and maintained in accordance with § 1910.134 (e) and (f) of this part.

(ii) The employer shall institute a respiratory protection program in accordance with § 1910.134(b) of this part.

(iii) Employees who wear respirators shall be allowed to leave work areas to wash their face and respirator facepiece to prevent skin irritation due to respirator use.

(iv) No employee shall be assigned to tasks requiring the use of a respirator if, based upon his most recent examination, an examining physician has determined that the employee would be unable to function normally while wearing a respirator, or that the safety or health of the employee or other employee would be impaired by his use of a respirator. To the maximum extent possible, such employee shall be rotated to another job, or given the opportunity to transfer to a different position, whose duties he is able to perform, with the same employer, in the same geographical area and with the same seniority, status, and rate of pay he had just prior to such transfer.

(h) *Personal protective clothing.* (1) The employer shall provide, and require the use of, personal protective clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings, for any employee exposed to airborne concentrations of asbestos fibers which exceed either of the limits prescribed in paragraph (c) of this section.

(2) Clean and dry protective clothing and equipment shall be provided to each affected employee at least daily.

(3) The employer shall clean, launder, maintain, or dispose of protective clothing and equipment required by this section.

(4) The employer shall assure that all protective clothing and equipment is removed only in change rooms required by paragraph (i) (1) of this section.

(5) The employer shall assure that no employee removes contaminated protective clothing and equipment from the change room, except for the purpose of cleaning, laundering, maintenance, or disposal.

(6) Contaminated protective clothing and equipment shall be placed in impermeable closed containers.

(7) The employer shall inform any person who launders or cleans protective clothing and equipment contaminated with asbestos of the potentially harmful effects of exposure to asbestos fibers.

(i) *Hygiene facilities and practices.* (1) *Change rooms.* Where employees wear protective clothing and equipment, clean change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment shall be provided.

(2) *Showers.* Employees working in regulated areas shall be required to shower before leaving at the end of the work shift. The employer shall provide shower facilities in accordance with § 1910.141(d)(3) of this part.

(3) *Lavatories.* Employees working in regulated areas shall be required to wash hands, face, and forearms prior to drinking, eating, or smoking. The employer shall provide an adequate number of lavatories for this purpose which shall meet the requirements of § 1910.141 (d) (1) and (2) of this part.

(4) *Arrangement of shower facilities.* Clothes lockers and shower facilities shall be arranged so as to separate regulated areas and uncontaminated areas.

(5) *Arrangement of lavatory facilities.* Lavatory and toilet facilities which are located in regulated areas shall be arranged so that no access is available from them to uncontaminated area.

(6) *Prohibition of activities in regulated areas.* The presence or consumption of food or beverages, the presence or use of smoking or nonfood chewing prohibit shall be prohibited in regulated areas.

(j) *Medical surveillance.* (1) *General.* Every employer shall provide or make available at his cost medical examinations relative to exposure to asbestos, as required by this paragraph. If an employee refuses a medical examination provided in accordance with this paragraph, the employer shall inform the employee of the possible health consequences of such refusal, and shall obtain a signed statement from the employee stating that such employee has been informed of the consequences and refuses to be examined.

(2) *Preplacement.* The employer shall provide or make available to each of his employees, within 30 calendar days following his first employment in an area exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination. Such examinations shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptoms of respiratory disease, pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$), and for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older, a sputum cytology examination.

(3) *Annual.* Every employer shall provide or make available comprehensive medical examinations to each of his employees exposed to airborne concentrations of asbestos fibers at least annually. Such examination shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptoms of respiratory disease, pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$) and, for employees with 10 or more years of exposure [1] to airborne concentrations of asbestos fibers or who are 45 years of age or older, a sputum cytology examination.

(4) *Termination of employment.* The employer shall provide or make available, within 30 calendar days before or after termination of employment of any employee exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination. Such examination shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptoms of respiratory disease, pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$) and, for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older, a sputum cytology examination.

(5) *Recent examinations.* No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with this paragraph within the past 1-year period.

(6) *Physician's written opinion.* (i) With respect to each examination required by this paragraph, the employer shall obtain a written opinion from the examining physician, containing the following:

(A) The physician's opinion as to whether the examined employee has any medical conditions which would place the employee at increased risk of material impairment of his or her health from exposure to asbestos fibers, or which would, directly or indirectly, be aggravated by such exposure;

(B) Any recommended limitations upon the employee's exposure to asbestos fibers, or upon the use of protective clothing and equipment, such as respirators; and

(C) A statement that the employee has been informed by the physician of any medical conditions which require further examination or treatment.

(ii) The written opinion shall not reveal specific findings or diagnoses unrelated to occupational exposure to asbestos fibers.

(iii) A copy of the written opinion shall be provided to the affected employee.

(7) *Withdrawal from exposure.* No employee shall be exposed to asbestos fibers in such a way as would put the employee at increased risk of material impairment of his or her health from such exposure. This determination may be based on the physician's written opinion.

(k) *Employee information and training.* (1) *Training program.* (i) Every employer shall provide a training program for employees assigned to regulated areas.

(ii) The training program shall be provided at the time of initial assignment and at least annually thereafter, and shall include informing each employee of:

(A) The specific nature of the operations which could result in exposure to asbestos fibers as well as any necessary protective steps;

(B) The engineering controls and work practices associated with the employee's job assignment;

(C) The purpose, proper use, and limitations of respiratory protection equipment as specified in § 1910.134 (b), (e), and (f) of this part;

(D) The purpose for, and a description of, the medical surveillance program required by paragraph (x) of this section; and

(E) A review of this standard.

(2) *Access to training materials.* (i) A copy of this standard and its appendixes shall be made readily available to all employees working in regulated areas.

(ii) All materials relating to the employee information and training program shall be provided upon request to the Assistant Secretary and the Director.

(l) *Danger signs and labels.* (1) *Danger signs.* (i) *Posting.* Signs shall be provided and displayed at each regulated area. Signs shall be posted at such a distance from such an area that an employee may read the signs and take necessary protective steps before entering the area marked by the signs.

(ii) *Sign specifications.* The signs shall display the following legend, with letter sizes and styles of a visibility at least equal to the following:

Legend	*Notation*
Asbestos	1 inch sans serif, gothic, or block.
Cancer hazard	¾ inch sans serif, gothic, or block.
Avoid breathing dust	¼ inch gothic.
Wear assigned protective equipment	Do.
Do not remain in area unless your work requires it.	Do.

Spacing between lines shall be at least equal to the height of the upper of any two lines.

(2) *Danger labels.* (i) *Labeling.* Labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have been modified by a bonding agent, coating, binder, or other material so that during any reasonably forseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (c) of this section will be released.

(ii) *Specifications.* Labels shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

DANGER

Cancer Hazard

Contains Asbestos Fibers

Avoid Creating Dust

(3) *Prohibition of contrary statement.* No statement may appear on or near any sign or label required by this paragraph which would contradict or detract from the sign or label.

(m) *Housekeeping.* (1) *Cleaning.* All exposed surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if their dispersion would create an airborne concentration in excess of the exposure limits prescribed in paragraph (c) of this section.

(2) *Waste disposal.* Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, which may produce in any reasonably forseeable use, handling, storage, processing, disposal, or transportation airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (c) of this section shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(n) *Recordkeeping.* (1) *Exposure records.* Every employer shall make an accurate record of every monitoring of employee exposure as required in paragraph (e) of this section.

(i) The record shall include:

(A) Date of monitoring;

(B) Operation involving exposure to asbestos fibers;

(C) Sampling and analytical methods used;

(D) Number, duration, and results of samples taken;

(E) Type of protective devices worn, if any; and

(F) Names, social security numbers, job titles, and exposure levels of all employees monitored.

(ii) Each record of an employee's exposure shall be maintained for at least 40 years, or for the duration of the employee's employment plus 20 years, whichever period is longer.

(2) *Medical records.* The employer shall keep an accurate medical record for each employee subject to medical surveillance required by paragraph (j) of this section.

(i) A record shall include:

(A) Physician's written opinion;

(B) Any employee medical complaints related to exposure to asbestos;

(C) A signed statement of any refusal to be examined, in accordance with paragraph (j) (i) this section.

(ii) Each record shall be maintained for at least 40 years, or for the duration of the employee's employment plus 20 years, whichever period is longer.

(3) *Mechanical ventilation measurements.* When mechanical ventilation is used as an engineering control, the employer shall maintain a record of the measurements demonstrating the effectiveness of such ventilation, as required by paragraph (f) (6) of this section.

(i) The record shall include:

(A) Date and location of measurements;

(B) Type of measurements taken; and

(C) Result of measurements;

(ii) Each record shall be maintained for at least 3 years.

(4) *Employee training.* The employer shall keep an accurate record of all employee training required by paragraph (k) of this section.

(i) The record shall include:

(A) Date of training;

(B) Name, social security number and job title of employee trained;

(C) Content or scope of training provided; and

(D) Identification of materials distributed to the employee.

(ii) Each record shall be maintained for at least 3 years.

(5) *Rosters.* Each roster required by paragraph (d) of this section shall be maintained for at least 40 years or for the duration of the personnel's employment plus 20 years, whichever period is longer.

(6) *Availability.* (i) All records required to be maintained by this section shall be made available, upon request, to the Assistant Secretary and the Director for examination and copying.

(ii) Employee exposure measurements records required by this paragraph shall be made available for examination and copying to employees, former employees, and their designated representatives.

(iii) Employee medical records required by this paragraph shall be made available upon request for examination and copying to a physician designated by the employee or former employee.

(7) *Transfer of records.* (i) In the event the employer ceases to do business, the successor shall receive and retain all records required to be maintained by this paragraph.

(ii) In the event the employer ceases to do business and there is no successor to receive and retain his records for the prescribed period, these records shall be transmitted by mail to the Director, and each employee and former employee shall be individually notified in writing of this transfer.

(o) *Observation of monitoring.* (1) *Employee observation.* The employer shall give employees or their representatives an opportunity to observe any measuring or monitoring of their exposure to asbestos fibers conducted pursuant to this section.

(2) *Observation Procedures.* (i) When observation of the measuring or monitoring of employee exposure to asbestos fibers requires entry into an area where the use of personal protective equipment is required, the observer shall be provided with and required to use such equipment and shall comply with all other applicable safety and health procedures.

(ii) Without interfering with the measurement, observers shall be entitled to receive an explanation of the monitoring or measurement procedures, observe all steps related to the measurements and record the results obtained.

(p) *Appendices.* The information contained in the appendices to this section is not intended, by itself, to create any additional obligations not otherwise imposed, or to detract from any existing obligation.

APPENDIX A—SUBSTANCE SAFETY DATA SHEET

Asbestos

I. SUBSTANCE IDENTIFICATION

A. Substance: Asbestos

For purposes of the asbestos standard asbestos is identified as including the following hydrated silicates: chrysotile, amosite, crocidolite, tremolite, anthophyllite and actinolite.

B. Permissible airborne exposures

1. 0.5 fibers (longer than 5 micrometers, with a length-to-diameter ratio of at least 3 to 1 and with a maximum diameter of 5 micrometers) per cubic centimeter of air as an 8-hour time-weighted average.

2. 5 fibers (longer than 5 micrometers with a length-to-diameter ratio of at least 3 to 1, and with a maximum diameter of 5 micrometers) per cubic centimeter of air as determined using a sample collected over a period up to 15 minutes.

C. Description

Mineral fibers of high tensile strength and flexibility. Color may be white, off white, blue or brown. Fibers vary from harsh coarse varieties to fine silky ones.

II. HEALTH HAZARD DATA

A. General

Asbestos poses a hazard as an air contaminant. Tissue pathology may be seen at the site of retained fine asbestos fibers which have been inhaled.

B. Asbestosis

A lung disorder characterized by a diffuse interstitial fibrosis at times including pleural changes of fibrosis and calcification. Accompanying clinical changes may include fine rales, and dyspnea, finger clubbing, and cyanosis. Many of the people exposed to asbestos fibers develop asbestosis if the fibers concentration is high or the duration of their exposure is long. In general, there is a considerable time lapse between inhalation of the fibers and the appearance of changes as determined by x-ray.

C. Neoplasms

Neoplasms, such as mesothelioma, may occur without radiological evidence of asbestosis at exposure levels lower than those required for prevention of radiologically evident asbestosis.

III. RESPIRATORS AND PROTECTIVE CLOTHING

A. Respirators

You must wear a respirator whenever you are in an atmosphere where asbestos fiber concentrations exceed the permissible limits. However, respirators can only be required for routine use if your employer is in the process of installing controls, or in situations where these controls cannot feasibly reduce exposure levels to within permissible limits. If respirators are worn, they must be selected in accordance with Table I of the asbestos standard and have a National Institute for Occupational Safety and Health (NIOSH) seal of approval. If you experience difficulty breathing while wearing a respirator, tell your employer.

B. Clothing

The purpose of wearing protective clothing is to prevent additional exposure which could result from asbestos dust from personal clothing and/or the body, becoming airborne. It is essential that contaminated clothing be removed and handled in such a way that the dust will not become airborne and inhaled.

IV. PRECAUTIONS FOR SAFE USE AND HANDLING

Perform all operations in a manner which will keep the amount of dust which becomes airborne and potentially inhaled to an absolute minimum. Follow the requirements of the asbestos standard regarding engineering controls, regulated areas, work practices, respiratory protection and protective clothing. Special work practices may be developed for your particular operations. Find out what they are and follow them. If you notice operations which may be exposing you or others to asbestos dust, tell your supervisor.

APPENDIX B—SUBSTANCE TECHNICAL GUIDELINES

Asbestos

I. PHYSICAL AND CHEMICAL DATA

A. Identification

Asbestos includes several different hydrated silicates, all fibrous minerals.

B. Minerals named in the asbestos standard

Chrysotile, amosite, crocidolite, tremolite, anthophyllite and actinolite.

C. Physical characteristics

Asbestos fibers generally have high tensile strength, flexibility, heat and chemical resistance and good frictional properties. Characteristics vary with the mineral:

(1) Chrysotile, the fibrous form of serpentine, is the most common variety of asbestos. It can be crushed into fine, white, silky fibers. It has high heat resistance but is destroyed by acids.

(2) Crocidolite, the fibrous form of riebeckite, has fine resilient blue fibers. The fibers are strong and resist acids.

(3) Amosite, the fibrous variety of grunerite, can be broken down into long somewhat harsh fibers, brownish-yellow to white in color. It is characterized by good resistance to acids and other chemicals.

(4) Anthophyllite has rather fragile, brownish or off-white fibers with good heat and chemical resistance.

(5) Tremolite (a calcium magnesium silicate) fibers have low tensile strength, making them undesirable for many industrial applications. It is often a major component of industrial and commercial talc.

(6) Actinolite (a calcium magnesium iron silicate) fibers, like tremolite fibers, have low tensile strength so that industrial use is limited.

II. CLEAN-UP OF SPILLS AND CONTAMINATED AREAS

A. Clean-up of asbestos and asbestos-containing materials must be done in a manner which will not result in employee exposure to asbestos dust. Do not dry sweep, blow or otherwise move the material so that it will become airborne. Wet the material before handling when possible. If loose material must be cleaned up dry, use vacuum cleaning or other methods which will keep dust under control.

B. Employees involved in clean up operations should be restricted from the area until clean up has been completed.

C. Employees involved in clean up operations should wear respiratory equipment specified in Table I of the asbestos standard when air concentrations are unknown. When air concentrations are known select appropriate respirators from Table I of the asbestos standard.

D. Enclose waste asbestos materials in containers which are impermeable to asbestos fibers and dispose of in a manner which will not result in subsequent exposures.

IV. MONITORING AND MEASUREMENT PROCEDURES

A. General

Measurements taken for the purpose of determining employee exposure are best taken in a fashion such that the average 8-hour exposure may be determined from a single sample or two (2) 4-hour samples. Short time interval samples (up to 30 minutes) may also be used to determine the average exposure level if a minimum of five (5) measurements are taken in random manner over the 8-hour work shift. Random sampling means that any portion of the work shift has the same chance of being sampled as any other. The arithmetic average of all such random samples taken on one (1) workshift is an estimate of an employee's average level of exposure for that workshift. Air samples should be taken in the employee's breathing zone (air that would most nearly represent that inhaled by the employee).

The concentration of dust in the air to which a worker is exposed will vary, depending upon the nature of the operation and upon the type of work performed by the operator and the position of the operator relative to the source of the dust. The amount of dust inhaled by a worker can vary daily, seasonally, and with the weather. In order to obtain representative samples of workers' exposures, it is necessary to collect samples under varying conditions of

weather, on different days, and at different times during a shift.

The percentage of working time spent on different tasks will affect the concentration of dust the worker inhales since the different tasks usually result in exposure to different concentrations. The percentage can be determined from work schedules and by observation of work routines.

The concentration of any air contaminant resulting from an industrial operation also varies with time. Therefore, a longer sampling time will better approximate the actual average.

With the following recommended sampling procedure, it is possible to collect samples at the workers' breathing zones for periods from 4 to 8 hours, thus permitting the evaluation of average exposures for a half or full 8-hour shift—a desirable and recommended procedure. Furthermore, dust exposures of a more normal work pattern result from the use of personal samplers.

B. Recommended method

The recommended sampling and evaluation method is described in a paper "USPHS/NIOSH Membrane Filter Method for Evaluating Airborne Asbestos Fibers" by Nelson A. Leidel, Stephen G. Bayer and Ralph D. Zummualde, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, National Institute for Occupational Safety and Health, Cincinnati, Ohio 45202 (in press). A brief summary is given below.

Samples are collected by drawing air through a cellulose ester membrane filter by means of a battery powered personal sampling pump. The filter, after collection of the sample, is transformed from an opaque solid to a transparent, optically homogenous gel. The fibers are sized and counted by phase-contrast microscopy at 400–450X magnification.

V. WORK PRACTICES FOR CERTAIN OPERATIONS

Work practices for certain work involving asbestos follow as enclosures to this appendix.

They are advisory in nature and are not intended to create any additional obligations not otherwise imposed by the standard, or to detract from any existing obligation.

ENCLOSURE I

LOADING, UNLOADING AND STORAGE ASBESTOS CARGO

(a) Prior to unloading bags or other container of asbestos fiber from a railcar, truck, ship, or other carrier, make a visual inspection of the cargo and cargo space to determine if leakage or spillage of asbestos cargo has occurred and the extent of loose asbestos and dust present, if any.

(b) If the cargo has not been damaged, and there is no visible loose asbestos fiber or dust on the cargo or in the cargo space, unloading and transport to storage or another carrier may proceed normally. Handle and store asbestos fiber which is in sealed bags or other closed containers impermeable to asbestos fiber in a manner that will minimize any damage that could create an exposure problem.

(c) If visual inspection of cargo and cargo space reveals bag or other container damage or loose asbestos fiber or dust at any time, do not proceed with unloading of cargo until precautions have been taken to minimize employee exposure.

(d) Collect any loose asbestos fiber and dust found in the process of unloading, or in the storage area, by vacuum cleaning or other suitable methods that do not in themselves produce air concentrations exceeding those prescribed in paragraph (b) of the asbestos standard, and dispose of it in sealed bags or other closed containers impermeable to asbestos fiber. Do not clean up asbestos by blowing or dry sweeping. Repair damaged bags or other containers by taping or by inserting into bags or other containers impermeable to asbestos fibers. Make these remedies before transporting the bag or the container to storage or use point.

(e) If it is known that railcars, trucks, ships or other carriers have contained asbestos as their last cargo, inspect the carrier and clean up any visible asbestos fiber and dust, prior to loading the next asbestos cargo, to ensure that no residue of asbestos fiber and dust will contaminate the asbestos cargo.

(f) If the airborne concentrations of asbestos fibers to which employees are exposed during asbestos cargo loading, unloading and storage are unknown select any respirator from Table 1 of the asbestos for employee use. During clean-up operations in carrier or storage areas where airborne concentrations of asbestos fibers are unknown have employees wear respirators selected from Table 1 of the Asbestos standard which protect for up to 50 times or more of the limits in paragraph (b) of the asbestos standard. Where the concentrations are known have employees wear appropriate respirators as specified in Table 1 of the asbestos standard.

(g) Special clothing is to be worn by all employees engaged in loading, unloading, and storage of asbestos cargo when the wearing of such clothing is required by paragraph (d)(3) of the asbestos standard.

ENCLOSURE II

INTRODUCTION OF ASBESTOS FIBER INTO MANUFACTURING PROCESSES

(a) Conduct production operations involving introduction of asbestos fiber into a process under dust controlled conditions such that employees are not exposed to concentrations of asbestos fiber above the exposure limits prescribed in paragraph (b) of the asbestos standard.

(b) In those operations where bagged asbestos fiber is being used, ensure that the fiber bags arrive at the work station in clean condition, free of loose fiber on the bag surface. If the bags are stacked on pallets, the pallets must be clean and free of loose fiber.

(c) Place empty bags or other containers which have contained asbestos fibers in closed or sealed containers impermeable to asbestos fibers until disposed of by methods that do not create airborne concentrations in excess of the exposure limits prescribed in paragraph (b) of the asbestos standard.

APPENDIX C—MEDICAL SURVEILLANCE GUIDELINES

I. ROUTE OF ENTRY

Inhalation.

II. TOXICOLOGY

A. Exposure to asbestos dust may result in asbestosis if the dust concentration is high or the duration of exposure is long. In general, there is a considerable time lapse between inhalation of the dust and the appearance of changes as determined by X-ray Asbestosis is characterized by:

1. A pattern of roentgenographic changes consistent with diffuse interstital fibrosis of variable degree and, at times, pleural changes of fibrosis and calcification.

2. Clinical changes including fine rales and finger clubbing. These may be present or absent in any individual case.

3. Physiological changes consistent with a lung disorder.

B. *Neoplasms*

Neoplasms, such as mesothelioma, may occur without radiological evidence of asbestosis at exposure levels lower then those required for prevention of radiologically evident asbestosis.

III. SPECIAL TESTS

A. Chest roentgenographs.
B. Lung function tests.
1. Forced vital capacity.
2. Forced respiratory volume at 1 second.
3. Sputum cytology.

VI. SURVEILLANCE AND PREVENTIVE CONSIDERATIONS

A. Preplacement

A routine medical examination and a complete medical and work history are required to be made available. The examination includes a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) forced expiratory volume at 1 second ($FEV_{1.0}$), and, for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older, a sputum cytology examination. Those employees with respiratory disorders generally should not be placed where there is increased risk to inhalation of asbestos fibers.

C. Annual and termination examination

Annual and termination examinations are required to be made available. They are to include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches), a history to elicit symptomatology of respiratory disease, pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$) and, for employees with 10 or more years of exposure to airborne concentrations of asbestos fibers or who are 45 years of age or older, a sputum cytology examination.

(Secs. 4, 6, 8, 84 Stat. 1592, 1593, 1599 (29 U.S.C. 653, 655, 657) and 29 CFR Part 1911)

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PART III:

ENVIRONMENTAL PROTECTION AGENCY

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STAGE II GASOLINE VAPOR RECOVERY

Proposed Decision, Amendments, and Test Procedure

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 438-2]

STAGE II GASOLINE VAPOR RECOVERY

Proposed Decision, Amendments, and Test Procedure

This notice announces the Administrator's proposed decision on gasoline station vapor recovery for eight air quality control regions. The current regulations requiring 90 percent recovery of vapors emitted during vehicle refueling did not precisely define the degree of control required nor did they set forth test procedures by which compliance could be determined. The proposed amendments substitute more precise mass emission standards for the percentage requirement and provide test procedures to insure that emission standards will be met by candidate systems. The proposed amendments require that large facilities, which account for 56 percent of the gasoline pumped, and certain new or modified facilities meet an emission limitation of 0.4 gram per gallon of gasoline dispensed. The amendments set a somewhat lenient standard for smaller stations and exempt facilities with very small volumes of gasoline pumped. Finally, the spillage restrictions in the current regulation are being relaxed to a small degree.

In order to allow adequate lead time for further development activities of vapor recovery system manufacturers, plus certification testing of systems, the interim dates in the current regulations are being changed. Control plans from owners of service stations for installation of Stage II systems, involving recovery of vapors from vehicles, will be due December 1, 1976, with final compliance required by May 31, 1977. Manufacturers of systems will have to receive certification of performance capabilities before December 1, 1976, in order for their systems to be available to owners of service stations.

Stage II vapor recovery regulations (as well as several other hydrocarbon control measures) for AQCR's in Texas have been affected by the decision of the United States Court of Appeals in *Texas vs. EPA*, 499 F.2d 289 (Fifth Circuit 1974). Stage II vapor recovery regulations for the affected AQCR's in Texas will be proposed in the revision to the Texas Transportation Control Plan (TCP) and are not part of this proposal.

In a recent decision of the U.S. Court of Appeals for the Fourth Circuit, the Court remanded the vapor recovery regulation in the Baltimore plan to EPA for further consideration in light of EPA's announced intention to provide further guidance as to the devices that will be approved as complying with the regulation. There is no question of the necessity for maximum hydrocarbon control in the Baltimore AQCR, and the guidance regarding vapor recovery devices is contained in today's proposed amendments. Therefore, this notice constitutes a reproposal of the vapor recovery regulation for Baltimore remanded by the Court. The proposed Baltimore regulation will be promulgated along with the amendments to the other plans upon completion of this rulemaking.

Background

In the formulation of Transportation Control Plans in mid-1973, it became evident that in many areas every available hydrocarbon control means had to be implemented if the national ambient air quality standard for oxidants was to be attained by 1977. This meant that stationary sources—representing 25 to 35 percent of hydrocarbon emissions in most areas—had to be controlled along with the motor vehicle. Gasoline marketing controls were incorporated into TCP's because the sources released significant fractions of the AQCR hydrocarbon burden and because control technology was more cost effective than most other available strategies. Current uncontrolled emissions from gasoline transfer operations are about 6 percent of hydrocarbon emissions in typical affected AQCR's. The range of uncontrolled emissions within the eight affected AQCR's is 3 to 16 percent. Two-thirds of these emissions are attributable to terminal operations and filling of storage tanks (Stage I) at service stations while the balance of the uncontrolled emissions emanated from the fueling of automobiles (Stage II). Gasoline marketing emissions are 11 percent of the needed hydrocarbon reduction in a typical AQCR and account for up to 25 percent of stationary source emissions. Uncontrolled emissions from Stage II operations are approximately equivalent to hydrocarbons that will be released from the tailpipes of vehicles meeting 1977 Federal standards. Thus, if gasoline marketing losses were not controlled, they (Stage I, Stage II, and terminals) would become 6 to 30 percent of hydrocarbon emissions in 1985 and eventually would represent tonnages 2 to 4 times greater than motor vehicle exhaust.

In view of this situation, EPA promulgated Transportation Control Plans in 1973 and 1974 which required a 90 percent reduction in gasoline vapors displaced during the filling of storage tanks (Stage I). Similarly, the emissions from fueling of vehicles (Stage II) were also required to be reduced by 90 percent. Implementation of Stage I regulations has moved ahead. The implementation of Stage II regulations, on the other hand, has been delayed by controversies over the effectiveness of control technology and by the need to clarify the intent and degree of control required by the regulation.

The Stage II regulations were incorporated into the Transportation Control Plans for 12 AQCR's including two interstate ACQR's (New Jersey-New York-Connecticut, National Capital) and ten intrastate AQCR's (Baltimore, Boston, Denver, Los Angeles, Sacramento Valley, San Joaquin Valley, Houston-Galveston, Dallas-Fort Worth, San Antonio, and El Paso-Las Cruces-Alamogordo). In addition, similar vehicle fueling regulations were enacted by San Diego County, the San Francisco Bay Area Air Pollution Control District, and the District of Columbia, and are being enacted in Massachusetts and Colorado.

These revisions were prepared in order to more precisely define the degree of control required by Stage II regulations and to provide testing and certification procedures.

Current Control Technology

As the courts have recently stated, Clean Air Act regulations are not necessarily limited to the degree of control achievable with technology already in existence, particularly when section 110 is involved. It is proper and sometimes essential that standards be set which require the development of new technology or improvement of existing technology, along with adequate lead time for the accomplishment of the tasks and sanctions for failure to comply or to contribute to the development of the technology. If technological problems cannot be overcome, the Act provides for extensions upon a showing of adequate efforts by those affected to solve the problems. The overriding consideration in the setting of standards is to be the attainment of the health-based primary ambient air quality standards.

Some of the current "vacuum assist" systems with "secondary recovery" have already shown the potential of attaining emission levels of 0.4 gram per gallon (gpg) (90 percent) in limited field tests. Some of the tests of the "balance" systems have shown the potential of attaining a 0.8 gpg (80 percent) standard. It is expected that manufacturers of these systems will make further improvements and that new concepts or "hybrids" will also come on the scene during the lead time that is being provided.

The balance system depends upon the displacement of air and hydrocarbon vapors as a result of pumping gasoline into the automobile fuel tank. Pressure in the tank created by the incoming fuel forces vapors out to the atmosphere under current, uncontrolled conditions. The concept of the balance system is to provide an alternative route for the vapors—through a vapor return hose to the underground storage tank where it replaces the liquid gasoline which is pumped to the vehicle. Most of the vapor is conserved and converted to liquid product. Potential points of leakage with the balance system are (1) the vehicle vent, (2) the storage tank vent, (3) the automobile fill neck/fill nozzle interface, and (4) any unforeseen leaks in the system. Automobiles produced since 1970 are equipped with carbon canisters which eliminate losses through the vehicle vent. The bulk of hydrocarbon emissions are released at the automobile fill neck and to a lesser degree at the storage tank vent.

The vacuum assist system adds two features to the balance concept; namely, a blower which develops a suction at the nozzle/fill neck interface and a processing unit to recover or otherwise reduce hydrocarbon emissions to the atmosphere. The purpose of the blower is to influence displaced vapors to enter the

vapor return line rather than leak to the atmosphere. The vacuum assist systems depend to some degree on an influx of additional air caused by the "vacuum sweeper" characteristics of the system. (Vapor growth and vapor shrinkage can also be caused in vehicle fueling by differences in temperature and volatility between dispensed gasoline and residual gasoline in the vehicle tank.) The processing unit condenses, absorbs, adsorbs, or incinerates excess hydrocarbon vapors which are not retained in the storage tank. Those systems employing condensation principles conserve most of the vapors and convert them back to liquid product.

Frequently, activated carbon is used to adsorb the vapors and the carbon is regenerated "on-site". One commenter, a manufacturer of activated carbon, has proposed an "off-site" regeneration scheme whereby carbon canisters are replaced periodically and regenerated at a central location. The Administrator has found no clear preference for on-site or off-site regeneration systems. Either approach probably could satisfy the more stringent emission limit of 0.4 gram per gallon if designed and operated properly. Viability in the market place will depend on costs and services offered by vendors of competing technology.

Besides off-site carbon regeneration, a number of firms are attempting to develop and market Stage II control systems which are more effective, less costly, or less complex than existing designs. Some of these processes may be marketed prior to the compliance date and provide significant advantages over existing technology.

Recognizing the many uncertainties regarding the two control technologies, EPA solicited comments on 19 key aspects of Stage II service station control (39 FR 21049, June 18, 1974) and undertook a testing program of both systems. Tests were conducted in San Diego and the San Francisco and Sacramento areas. Comments on the FEDERAL REGISTER notice were received from 42 interested parties. These included 15 petroleum marketers, two marketing trade associations, nine State or local air pollution control agencies, eight vendors of vacuum assist systems and associated products, two manufacturers of vapor balance hardware, two technical societies, two environmental groups, a university professor, and a national testing laboratory. Many of the comments tended to fall into patterns depending upon the commentors' preference for vapor balance or vacuum assist technology. Petroleum marketers and related trade associations recommended the balance system and their comments generally reflected optimism that the system is effective and preferable to blower assist technology. They stated that balance technology is less expensive, simpler, more reliable, safer, almost as effective for hydrocarbon control as blower assist systems, and over the long haul possibly more effective. Comments from vacuum assist vendors and the San Diego County Air Pollution Control District tended to support vacuum assist technology. Advocates of assist technology contend that these systems are much more efficient, able to handle excess vapor conditions, made up of components of proven reliability, safe, and even if more costly than balance systems, still more cost effective than most other strategies to control hydrocarbons. Copies of all comments and additional supporting material are available at EPA's Freedom of Information Office.

In general, estimates of control efficiency of vapor balance systems by their proponents ranged from 81 to 96 percent. However, in many cases supporting data were not provided and in others there were deficiencies in the testing methods such as excluding certain classes of vehicles or failure to measure losses at all possible emission points. Estimates of balance system efficiency by vacuum assist advocates ranged from 20 to 75 percent but no data supporting the lower figures were supplied. In response to a request from San Diego County, and under the direction of an advisory panel, EPA conducted efficiency tests in June 1974 on both balance and vacuum assist systems; in July and August 1974 EPA conducted additional efficiency tests on balance systems in the San Francisco-Sacramento area. These tests showed efficiencies of 69 percent and 83 percent, respectively, for balance systems at two stations in San Diego and efficiencies of 66 percent, 76 percent, 79 percent, and 77 percent for balance systems of four configurations at two stations in the San Francisco and Sacramento areas. The report of the San Diego tests indicates that operator techniques may have some influence on balance system efficiency. The performance standard being proposed for smaller stations would be 0.8 gpg, or about 80 percent.

In general, vacuum assist proponents stated that their systems would provide 90 to 99 percent efficiency, while balance system advocates generally stated that vacuum assists would get 90 percent efficiency. Again, however, the statements were not based on comprehensive testing and the data provided were not conclusive. EPA's 1974 tests in San Diego showed one vacuum assist system with an efficiency of 90 percent; it was not possible to obtain results on two others because of malfunctions which caused leakage. The malfunctions encountered are correctable. In addition, at least two other vacuum assist systems, which are now marketed, were not tested. The performance standards being proposed today for larger stations and for new or modified stations would be 0.4 gpg, or about 90 percent.

Proponents of the balance system stated that their systems were reliable, while vacuum assist systems were unreliable and subject to breakdown so that they would not consistently achieve a 90 percent performance efficiency in actual practice. Vacuum assist advocates, on the other hand, stated that the balance systems could not effectively recover hydrocarbons from many filler neck configurations and needed special handling and techniques unlikely to occur under normal operating conditions, while their own systems used components shown to be reliable elsewhere and required no special operator techniques. EPA has surveyed reliability through a contract study in San Diego in 1974. A further reliability study was initiated in June 1975. Specific reliability, or "down time" problems were identified in 1974 at some vacuum assist service stations. Many of the problems were being corrected by the manufacturers after the survey and none of the reliability problems are considered insurmountable. The proposed test procedure for certification will deal with reliability by (1) requiring that operating conditions during the tests be normal, with special instructions to the operators during the tests prohibited; and (2) requiirng a 30-day "hands-off" reliability period prior to testing.

Advocates of the balance system generally felt that the regulations should exempt vehicles with poorly-mating fill necks and those pre-1970 vehicles with vented fuel tanks. They pointed out that pre-1970 vehicle with vented fuel tanks would not be an important part of the vehicle population in the future. This rationale does not apply to vehicles with poorly-mating fill necks because many vehicles being manufactured today have fill neck configurations with poor zone of access for the collection of displaced vapors. This situaiton cannot be corrected in the immediate future because of lead times necessary to implement design standards. Proponents of vacuum assist systems generally pointed out that the "vacuum sweeper" principle of their system partially overcomes the problem of fill neck configuration, and opposed exemptions. The administrator has concluded that problems of fill neck design should be accounted for in the recovery efficiency requirement rather than by exempting certain vehicles. Not only is this administratively much less burdensome, but it will encourage the development of equipment tion, and opposed exemptions. The Adverse conditions of fill neck design. Such capability will be required over the next 10 years even if regulations for standardized fill necks are promulgated. Therefore, the amendments being proposed today would delete the generally worded exemption in the current regulations.

Balance system proponents claimed that their systems were inherently safe, while vacuum assist systems could pose new hazards in a service station. The vacuum assist advocates argued that the safety arguments had been disproved and that their systems would be as safe as balance systems and an improvement over the uncontrolled service stations' environment. Occupational Safety and Health Administration (OSHA) regulations and the present National Fire Protection Association (NFPA) Flammable and Combustible Liquids Code 30 require listing (review) of service station dispensers and nozzles by a safety testing laboratory. In addition, NFPA has recently drafted Tentative Interim Amendments to Code 30 which establish certain requirements for service station vapor

control systems and require listing of vapor processing systems. Fire marshals may require these or other safety procedures. Safety problems are simply one among the technological problems which the Clean Air Act requires to be overcome through private research and development. EPA will not require the installation of unsafe equipment, but neither will it allow allegations of safety problems to deter the control program and its sanction unless it can be shown that a good faith effort was made to solve the problems and that it could not be done. This question may well be moot since the vacuum assist system of one manufacturer has recently received safety approval from a recognized testing laboratory in California and other manufacturers have submitted their systems to various laboratories for approval. In addition, one vapor balance system nozzle has received approval and other nozzles have been submitted for approval. Issues of safety are properly the province of OSHA and the local fire marshals and nothing in EPA's regulations prohibits them from exercising their authority.

Costs were submitted by several commentators. These commentators included both oil industry representatives and vendors of control equipment. In some instances actual bids were provided and in others only estimates were made available. Direct comparisons of costs for vapor balance and vacuum assist systems were not feasible since none of the commentators provided firm bids for the procurement and installation of both systems at a common facility. Also in most instances, it was not possible to separate Stage I costs from those of Stage II. Common practice was to provide a firm bid for either a balance or assist system and estimate the cost of the other. In some instances, only average costs were submitted.

In general, the vacuum assist proponents indicated that some systems would cost no more than one and one-half times that of a balance system. Advocates of the balance systems, on the other hand, contended that cost differential would be on the order of 2 to 1. Based on information received during the comment period and subsequent submittals, projections were made of the potential capital costs required to purchase and install vapor balance and vacuum assist systems of various designs and configurations currently in use at different size service stations. These projections are as follows:

Station throughput	Vapor balance [1]	Vacuum assist [1]
8,000 gal per mo	$3,000-$5,000	$6,000-$8,000
50,000 gal per mo	6,000-8,000	11,000-15,000
150,000 gal per mo	7,000-10,000	12,000-18,000

[1] Costs include both stage I and stage II equipment.

The projections are expressed as ranges because the costs of installing vapor recovery equipment at individual stations will vary depending upon numerous factors. The higher end of the cost range can be due to a larger number of pumps, pump islands, and storage tanks, unusual site configuration, local labor rates, and the balance system design (manifold or non-manifold) or vacuum assist unit selected. The cost estimates are applicable principally to commercial stations which operate two or more pump islands. Other than commercial stations may have higher or lower costs depending on their particular situation. EPA expects competition, knowledgeable purchasing, and economies of scale to moderate the high ends of the cost ranges. An example of the benefits to be derived from these market forces is found in the case of one San Diego, California, operator of convenience stores. Utilizing competitive procurement procedures for a number of installations, the firm received bids ranging from $3,200 to $7,000 for the installation of vacuum assist equipment at each site, and selected the lowest figure.

One investigation conducted by Agency staff indicates that the cost differential between the two systems may be less than that indicated by the above table in special situations. For example, this study indicated that the comparative cost of equipping a 30,000 gallon a month station with six nozzles may be as follows:

Nonmanifolded balance: [1]	
Drybreaks ($37), caps ($13), ground boxes ($22), and risers ($35) (3 each at $107 per tank)	$321
Cut new openings into tanks (3 at $40 each)	120
Excavation, filling for above (2 person-days, $15/h)	480
Vapor pipes from each dispenser (450 ft times $3/ft)	1,350
Install above (24 h times $20/h, 16 h times $15/h)	480
Trenching, backfill, cementing, et cetera	800
PV valve and vent float valve	35
Nozzles, hoses, flame arrestors (6 at $145 each)	870
Install above (6 at $40 each)	240
Truck, compressor, miscellaneous pipefitting	300
Total	5,236
Manifolded vacuum assist: [1]	
Drybreaks, caps, ground boxes, and risers (3 each at $107 per tank)	321
Cut new openings into tanks (3 at $40 each)	120
Excavation, filling for above (2 person-days, $15/h)	480
Vapor pipes from each island (150 ft times $3/ft)	450
Install above (12 h times $20/h, 8 h times $15/h)	360
Trenching, backfill, cementing, et cetera	535
PV valve and vent float valve	35
Nozzles, hoses, flame arrestors, vacuum regulators (6 at $195 each	1,170
Install above (6 at $60 each)	360
Truck, compressor, miscellaneous pipefitting	200
Vacuum assist unit (list price for single order)	3,000
Alter vents and connect unit	50
Electrical installation	500
Concrete pad	100
Shipping	30
Total	7,771

[1] Costs include both Stage I and Stage II equipment.

These costs are developed from vendor price lists and communications with installers of vapor control equipment.

In order to assure that the Agency can more accurately assess the costs of procuring, installing, and operating the various types of Stage II control equipment, the Administrator is hereby soliciting additional cost information from the general public, oil companies, manufacturers of vapor control equipment, and other governmental regulatory bodies. Responses should be based on actual installations and contain sufficient detail to enable comparative analysis. For example, the station at which the equipment was installed should be identified in terms of number of product tanks, pumps and pump islands, and throughput. Installation costs should be itemized, i.e., excavating, pipe laying, nozzle hookup, and when applicable the installation of vacuum assist components such as ITT valves, flame arrestors, as well as the processing unit. The type of vacuum unit selected, including the throughput rating, or the design of the balance system installed should be specified.

The three-tiered regulation which is being proposed would require the greatest collection efficiency at large facilities which release the largest amount of hydrocarbons. In this respect, the regulation is similar to other stationary source requirements such as process weight regulations for particulates and solvent control regulations applicable to surface coating, drycleaning, and degreasing operations. Facilities constructed or renovated on or after September 1, 1976, would also be required to utilize the most efficient equipment. The proposed regulations do not require control on the large number of existent small stations (less than 120,000 gallons per year) because regulation of such stations would place an extremely heavy testing and surveillance burden on EPA, State and local agencies and industry with a minimal reduction in hydrocarbon emissions.

Description of EPA Abatement Program

In order to assure installation of effective systems, this notice sets forth a proposed test procedure whereby a manufacturer will obtain pre-installation approval of his system. Service station owners and operators will be required to submit, with the control plans currently required by the regulation, evidence of selection of a tested and approved system. In this manner, service station owners will have the option of choosing a vapor collection system with some protection and assurance that the systems will comply with emission standards.

Lead time is being provided for the development over the next several months after which manufacturers will conduct certification tests according to the EPA procedures. EPA reserves the right to observe tests and to conduct tests as deemed necessary. The certification tests are intended to measure expected performance under "real world" conditions. For this reason, various features of the test are designed to prevent the influence of operator bias. These

include the requirement that nozzles not be hand-held and that systems be operated for 30 days without adjustment prior to certification testing.

An application for certification will be required to be accompanied by operating parameters and a maintenance manual. The tests will be conducted according to such parameters and a maintenance manual, and any certification will be given only for systems adhering to such parameters. For example, if a system cannot provide adequate control of vapors and prevent spillage at dispensing rates greater than 6 gallons per minute, it must be designed to limit dispensing rates to that amount. On the other hand, systems which can be shown to perform effectively at higher dispensing rates would not be limited to lesser rates.

The maintenance manual must specify all maintenance necessary to operation of the system. Before granting certification, the Administrator will specify any maintenance procedures which will be added to insure reliable operation. Systems which can only perform successfully under conditions unlikley to be complied with in the field will not be certified.

The certification procedure is designed to stimulate the development of improved technology and to obviate field testing. Owners must submit plans to install certified systems on or before December 1, 1976. Owners who install systems certified by others will be required to demonstrate that their equipment is installed properly and operated in accordance with the regulations.

After the final compliance date, the Agency will conduct field surveys to check to see that control systems are properly installed and being operated in accordance with the operating manual. Critical operating parameters will be checked, and sources whose systems are not meeting their certified efficiency rating will be subject to the sanctions of Section 113. Owners that fail to submit control plans or to install control systems at their facility, or who submit false data will be subject to the penalties enumerated under Section 113 of the Act.

The same procedures will be used to certify systems at both performance levels. Upon evaluating a system, it will be certified for use on all service stations if it limits emissions to 0.4 gram per gallon or less. However, if testing shows that emissions are more than 0.4 but not more than 0.8 gram per gallon, the system will be certified only for stations with throughputs less than 360,000 gallons per year (30,000 gallons per month). It is anticipated that one or more systems employing vacuum assist technology will achieve the required performance levels. The performance of balance systems is less certain. Some data suggests that such systems may not be able to achieve the 0.8 gram per gallon standard. If this should occur, all facilities subject to Stage II controls will be required to install a certified vacuum assist system.

The purpose of this approach is to stimulate the development of new technology. If, for any reason, the deadline were to fall due without a single system having been approved, no extensions in the deadlines for submission of control plans would be given on the mere grounds of unavailability of equipment. Both sections 110(f) and 113(a)(4) of the Clean Air Act provide that extensions are to be available only to those who can show that they have made good faith efforts to comply. Owners of a small number of facilities would be required to show their good faith efforts by their attempts to purchase and install approved recovery systems, while owners of a large number of facilities would be required to demonstrate the extent to which they had encouraged the development of effective systems since 1973, when these regulations were first promulgated, and particularly starting with the publication of this notice. Failure to make an adequate "good faith" showing would render the owner and operator liable to the sanctions available under section 113 of the Clean Air Act.

A good faith effort to develop effective vapor recovery systems will not be shown by attempts to improve only one system. The good faith test requires aggressive investigation and development programs aimed at all possible systems, particularly those which are capable of higher degrees of control, even at higher cost. The Administrator wants to forewarn those subject to this regulation that this position will be taken in any subsequent proceedings which may take place.

Test Methods and Certification Procedures

The proposed test methods pertain to determination of emissions during underground tank filling operations (Stage I) and vehicle refueling operations (Stage II). Stage I methods involve the direct measurement of the volume of air/vapor mixtures emitted to the atmosphere. In contrast, Stage II methods involve indirect measurement because of the difficulty of measuring the various leaks occurring during vehicle fueling. The proposed test method in Section IV of Appendix F was developed and utilized during the test program EPA conducted in San Diego during the summer of 1974. The methods contain a high degree of specificity in terms of test conditions, equipment, and procedures. The purpose of this detail is to insure maximum uniformity in testing and to eliminate oversights and inconsistencies. The detailed procedures are not, however, intended to limit alternative approaches or to otherwise inhibit advances in the state-of-the-art of testing. Therefore, provisions are included for submission of alternative test techniques.

Two alternative Stage II testing techniques have been submitted to EPA for consideration. These techniques are being published in Section V and Section VI of Appendix F for comment. Comments should address the adequacy of procedures for the purpose of measuring emission rates to the atmosphere. Comments and data are also solicited concerning the comparability of the alternatives to the techniques included in Section IV of Appendix F. Based upon these comments and any other information, these techniques may be approved as alternatives to, or may replace respective techniques contained in Section V. Other test methods have also been reviewed prior to this proposal; notably a procedure under development by the State of California Air Resources Board. The latter procedure is not, however, being published for comment because it is similar to the method proposed in Section IV of Appendix F. The methods differ primarily in the technique used for determining baseline emissions.

The indirect Stage II test methods are proposed to be used to measure emissions which occur at the vehicle fill neck/nozzle interface during vehicle refueling. These are being proposed only because no field test method has been shown to be feasible for direct measurement of these emissions. In the case of vapor balance control systems, the quantity of vapor released at the nozzle interface is calculated as the difference between potential emissions and emissions retained in the system. This procedure requires the accurate determination of baseline hydrocarbon emissions from uncontrolled vehicles during each certification test. If it can be shown that baseline emissions can be accurately calculated, the proposed procedure provides for approval of the calculation procedure in lieu of or in combination with baseline testing at the facility. Comments and data are invited on the development and possible use of a single baseline for all testing of all vapor balance control systems.

For vacuum assist Stage II control systems, an empirical procedure is proposed to supplement a direct measurement technique. This procedure is based upon data measured during EPA-sponsored tests in San Diego, California, in 1974. Here it was found that when there were no leaks at the nozzle/fill neck interface, hydrocarbon concentrations as measured with a portable detector did not exceed 10 percent of the lower explosive limit (LEL), i.e., about 0.2 percent hydrocarbons by volume. When hydrocarbon concentrations exceeded 1.0 LEL, the average collection efficiency of balance systems was found to be approximately 44 percent. Measurements in all cases were conducted in immediate proximity of the fill neck/nozzle interface. These data were used to develop an empirical relationship between vapor losses at the nozzle interface and explosimeter readings. These losses will be added to losses measured directly in the exhaust stream. This empirical procedure will have little importance for fully effective vacuum assist systems since there should be few measurable leaks at the nozzle interface. Nevertheless, the procedure will assure that significant leakage is not overlooked. The procedure is unnecessary for balance systems since the aforementioned indirect procedure measures nozzle interface losses. Comments and data are also invited on alternative test procedures for vacuum assist control systems, including the possibility of utilizing a baseline approach

similar to the proposed vapor balance control system test procedure.

The proposed Stage II test procedures use only vehicles which are filled with automatic dispensing nozzles operating in a "hands-off" condition. This is typical of most normal operations at a filling station although some hand-held filling does occur. Typical hand-held operation cannot be duplicated during a certification test. Therefore, to insure that operator bias will not unnecessarily influence test results, hand-held operations are not included in the emission calculations. However, there is a growing trend toward self-service operations in gasoline retailing. Because self-service operation is likely to affect the recovery efficiency of the systems, this mode of operation should be incorporated in the test methods in some manner to provide a realistic measure of the effectiveness of the system under normal operating conditions. Comments and data are invited on the effect of self-service operations on the recovery of various systems, and how these operations could be simulated by or incorporated into any certification test procedures.

The cost for testing control systems is high, ranging from approximately $4,000 for individual vacuum assist installations to upwards of $10,000 for individual vapor balance installations. In light of the testing costs associated with individual installations, procedures are being proposed for approval of systems based upon testing of representative models. Costs associated with certification of a system design in accordance with these procedures may range from $10,000 to $50,000. Since the number of balance system designs is estimated at 5 or 6 and assist systems at 8 to 10, the overall cost of determining compliance will, although substantial, be small compared to the cost of the control systems required by this regulation. As proposed, the test procedures applicable to testing representative models include only a general requirement that the distribution or mix of test vehicles shall be reasonably representative of the on-the-road vehicle distribution in the United States. It is EPA's intent, if possible, to make this requirement more specific, particularly with respect to the distribution of vehicles for which fill neck characteristics affect collection efficiency. Toward this end, a survey has been initiated to obtain data which can be used to characterize the distribution of various fill neck sizes and configurations more precisely. The intent of the proposed requirement and of the current survey is to insure that test results are not biased by an abnormal distribution of test vehicles.

Spillage Restrictions

Besides displacement vapor losses, vehicle fueling operations result in spillage of liquid gasoline on exposed surfaces with resultant evaporation of hydrocarbons to the atmosphere. Spillage losses at uncontrolled stations average about 0.3 gram per gallon of gasoline dispensed. Current regulations, e.g., § 52.1599(a)(3) for New Jersey prohibit all fuel tank overfills or spillage on fill nozzle disconnect. In EPA's test program it was found that there were no systems which would completely eliminate spillage. In testing four balance systems, a total of 697 vehicle fillings resulted in 28 cases of spillage.[1-6] This is a rate of four spills for every 100 fills. Three vacuum assist systems gave a higher spillage rate (18 per 100 fills) but EPA believes that this rate can be reduced through design modifications or reducing fill rate.[7] Therefore, the spillage requirement is being relaxed only to a small degree allowing five spills per 100 fills. Assuming that an average of 12 gallons is dispensed per fill and that the average spill is 10.5 grams,[11] allowable spillage would represent a loss of 0.05 gram per gallon of gasoline dispensed.

Responsibility of Owners and Operators

In the notice of June 18, 1974, EPA requested comments on whether the owner/lessor or the operator of a leased facility subject to Stage II vapor recovery regulations should be the party required to install the equipment. Eighteen organizations and individuals presented comments. Thirteen parties, including oil companies, pollution control equipment manufacturers, State and local air pollution control boards, an environmental group, and a State association of gasoline retailers favored a requirement that the owner/lessor be responsible for installation of the equipment. In general, these comments stated that the installation should be the responsibility of the party who owns the underground storage tanks and dispensing pumps because vapor recovery equipment is a permanent addition to such equipment.

Four organizations commenting proposed that the responsible party be determined by individual contractual provisions or past customs on similar matters. They pointed to many different and complex contractual relationships in the industry and stated that a uniform requirement would be undesirable.

The proposed regulations adopt the first view that the owner of the underground storage tanks and dispensing pumps should be responsible for submitting a control plan and installing the vapor recovery system. The owner has the permanent interest and exercises control over the relevant equipment. As owner he is also responsible under the regulations for providing maintenance instructions on the vapor recovery system installed to the operator and for repair or replacement of major system components (e.g., blowers, secondary recovery units), upon notice by the operator that such maintenance is needed. The owner is also required to keep records of the maintenance of major components for which he is responsible under the regulations.

The operator of the facility is responsible under the proposed regulations for day-to-day operation and maintenance of the vapor recovery system according to the instructions provided by the owner and for notifying the owner of the need for replacement or repair of major system components. Records of all maintenance performed must be kept by the operator, whether the maintenance is performed by the operator or by the owner or his agent upon notice by the operator. The operator is also required to maintain gauges, meters, or other specified field testing devices in proper working order.

Under the proposed regulations, both the owner and the operator are subject to the prohibition against transferring gasoline to motor vehicles at facilities subject to the regulation unless the facility is equipped with a system which will meet the vapor emission standards applicable to the facility.

Fill Pipe Standardization

Variations in vehicle fill pipe configurations represent the most significant problem in controlling hydrocarbon emissions during automobile refueling. Developers of control systems have sought to overcome this problem by various means. To date, however, the various systems offered have not been able to uniformly maintain the same efficiency for all vehicle fill pipe configurations encountered. Sensitivity of system efficiency to vehicle mix and the related factor of operator technique could be greatly reduced or eliminated if vehicle fill pipes were standardized. The associated problem of fuel spillage could also be remedied. Unless fill pipes are standardized there will be nothing to prevent detrimental changes to fill pipe designs which could eventually invalidate vapor recovery certification tests.

In view of this situation, the agency is presently studying the possibility of fill pipe standardization. Standard specifications might include limits on fill pipe diameter; minimum design criteria for nozzle retainer lips; limits on the location of the unleaded fuel restrictors; a minimum access zone surrounding the fill pipe; and a minimum fill pipe or nozzle insertion angle.

However, considering the lead time needed for development and implementation of any standard specification for fill pipes (1–3 years) and the time needed for standardized vehicles to replace the on-the-road vehicle population (10 years), fuel pipe standardization must be viewed as a long-term aspect of the refueling emission control program. Therefore, owners of facilities subject to Stage II gasoline marketing regulations should not rely upon fuel pipe standardization when developing or procuring control systems for the purpose of complying with these regulations by May 1977.

Public Comments

This notice consists of a proposed decision on amendments to existing Stage II regulations and sets forth testing and certification procedures. This decision will be finalized as quickly as possible. These proposed amendments are being published as one complete regulation. This format is being used to make for better reading and clearer comprehension of the proposed amendments. It is the intent of this proposal to clearly explain and describe the impact of these proposed amendments and to obtain pertinent public comments before final rulemaking. For final rulemaking, the

amendments will be published in accordance with formal FEDERAL REGISTER requirements so that each of the existing state Stage II regulations will be amended by the corresponding paragraphs of the regulation presently being proposed.

The record and basis for the Agency's decision consists of the public comments made in response to the June 18, 1974, FEDERAL REGISTER notice, as well as certain other documents listed at the end of this notice. The submission have been available for public inspection since August 1974, at EPA's Freedom of Information Office, as announced in the June 18, 1974, FEDERAL REGISTER. Persons who believe that this final proposal improperly fails to deal with comments or information previously submitted or available should call this to the Administrator's attention at this time.

Comments on the proposed revisions should be submitted, preferably in triplicate, to Mr. Roger Strelow, Office of Air and Waste Management, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. All comments postmarked not later than November 24, 1975, will be considered.

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

Dated: October 1, 1975.

JOHN QUARLES,
Acting Administrator.

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16. Cost Effectiveness of Methods to Control Vehicle Refueling Emissions, April 1973, Prepared by Refinery Management Services Company for the American Petroleum Institute.

17. Liston, E. M., Evaluation of the Baseline Procedure for Determining the Efficiency of a Simple Displacement System for Vapor Recovery at Service Stations. Prepared by Stanford Research Institute for American Petroleum Institute, January 1975.

18. Panarisi, F., Gasoline Vapor Recovery Test Results, Report to the San Diego County Board of Supervisors, August 14, 1974.

19. Goeller, B. F. et al, San Diego Clean Air Project: Summary Report. Prepared by the Rand Corporation for the County of San Diego, December 1973.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations. The following subparts and sections would be amended by this proposal:

1. Subpart F—§ 52.256 Control of evaporative losses from the filling of vehicular tanks. (Metropolitan Los Angeles, Sacramento Valley, and San Joaquin Valley Intrastate Air Quality Control Regions.)

2. Subpart G—§ 52.337 Control of evaporative losses from the filling of vehicular tanks. (Metropolitan Denver Intrastate Air Quality Control Region.)

3. Subpart J—§ 52.488 Control of evaporative losses from the filling of vehicular tanks. (District of Columbia portion of the National Capital Interstate Air Quality Control Region.)

4. Subpart V—§ 52.1087 Control of evaporative losses from the filling of vehicular tanks. (Maryland portion of the National Capital Interstate Air Quality Control Region.)

5. Subpart V—§ 52.1102 Control of evaporative losses from the filling of vehicular tanks. (Metropolitan Baltimore Intrastate Air Quality Control Region.)

6. Subpart VV—§ 52.2438 Control of evaporative losses from the filling of vehicular tanks. (Virginia portion of the National Capital Interstate Air Quality Control Region.)

7. Subpart W—§ 52.1144 Control of evaporative emissions from retail gasoline outlets. Section (d). (Metropolitan Boston Intrastate Air Quality Control Region.)

8. Subpart FF—§ 52.1599 Control of evaporative losses from the filling of vehicular tanks. (New Jersey portion of the New Jersey-New York-Connecticut Air Quality Control Region.)

1. It is proposed to revise each of these sections in Part 52 by substituting the following provision:

§ 52 Control of evaporative losses from the filling of vehicular tanks.

(a) Definitions:

(1) "Gasoline" means any petroleum distillate having a Reid Vapor Pressure of 4 pounds or greater.

(2) "Facility" means any site where gasoline is dispensed to vehicle fuel tanks from any stationary storage container with a capacity greater than 250 gallons, except that the term does not include any such site where the stationary storage container capacity does not exceed 550 gallons and the gasoline is dispensed exclusively for the fueling of implements of husbandry.

(3) "Group A" means any facility which dispenses 360,000 gallons or more of gasoline during a representative year from stationary tanks through dispensing equipment to vehicle fuel tanks or any gasoline dispensing facility, the construction or modification of which is commenced on or after September 1, 1976.

(4) "Group B" means any facility which dispenses 120,000 gallons or more but less than 360,000 gallons of gasoline during a representative year from stationary tanks through dispensing equipment to vehicle fuel tanks.

(5) "Group C" means any existing facility which dispenses less than 120,000 gallons of gasoline during a representative year from stationary tanks through dispensing equipment to vehicle fuel tanks. Such a facility is not required by this regulation to install or operate Stage II vapor recovery equipment.

(6) "Representative year" for a facility means calendar year 1975, unless the owner of the facility shows that gasoline sales for 1977 or later years are likely to be substantially different from 1975 sales.

(7) "Commence construction" means to engage in a continuous program of construction including site clearance, grading, dredging, or land filling specifically designed for a facility in preparation for the fabrication, erection, or installation of the building or equipment components of the facility.

(8) "Commence modification" means to engage in a continuous program of modification, including site clearance, grading, dredging, or land filling in preparation for a specific modification of the facility.

(9) "Modification" means any renovation of a facility which increases the gasoline storage capacity of an underground tank at the facility or increases the number of gasoline pumps at the facility.

(10) "Owner" means any person who has legal title to the stationary gasoline storage tank(s) and gasoline dispensing equipment at a facility which dispenses gasoline to vehicle fuel tanks.

(11) "Operator" means any person who leases, operates, or supervises a facility at which gasoline is dispensed from stationary storage tanks through dispensing equipment to vehicle fuel tanks.

(b) No owner or operator shall transfer or allow the transfer of gasoline to a motor vehicle fuel tank from a gasoline dispensing facility unless the transfer is made through a system which:

(1) When tested according to the procedures in Appendix F limits the discharge of hydrocarbons into the atmosphere as a result of the refueling operation to:

(i) 0.40 gram of hydrocarbon vapor per gallon of fuel dispensed at Group A facilities.

(ii) 0.80 gram of hydrocarbon vapor per gallon of fuel dispensed at Group B facilities.

(2) Allows motor vehicle fuel tank overfills or spillage in no more than five vehicle fillings in 100 or fewer consecutive fillings.

(c) Every owner of a Group A or Group B facility subject to the requirements of this regulation shall:

(1) Submit to the Administrator no later than December 1, 1976, a control plan applicable to each facility which includes:

(i) A signed commitment to install a control system which has been certified by EPA prior to the date for submission of this control plan in accordance with procedures specified in Appendix F. This control plan shall include:

(a) A description of the control system including make, model, size, required field testing devices, and other pertinent features.

(b) The address(es) of each facility covered by this control plan.

(c) The calendar year 1975 throughput for each facility covered by this control plan. In lieu of the exact 1975 throughput, the group designation for each facility covered by this control plan may be substituted. Any projected increase or decrease in gasoline sales at a facility due to closing, renovation, or expansion that would cause the facility to change to a group subject to different emission standards before January 1, 1977, shall be reported in the control plan.

(2) Complete installation of a system which complies with the provisions of paragraph (b) of this section no later than May 31, 1977.

(3) Provide to the operator the specifications, operating and maintenance procedures specified by the manufacturer of the control system and approved by the Administrator pursuant to the certification procedures in Appendix F, and provide procedures for prompt notification of the owner by the operator of any scheduled maintenance or malfunction requiring replacement or repair of major components of the system.

(4) Repair or replace any major components of the system promptly after notice by the operator that such components require such maintenance.

(5) Maintain records of any notification by the operator of any scheduled maintenance or malfunction requiring replacement or repair of major components of the system and the action taken. These records shall include the date and description of the maintenance performed, the date the need for maintenance or the malfunction was reported, and the date the maintenance was performed or the malfunction was corrected. These records shall be preserved for not less than one year for each facility and shall be available for inspection by authorized EPA personnel.

(d) Every operator of a Group A or Group B facility subject to the requirements of this regulation shall:

(1) Maintain and operate the control system in accordance with specifications, operating and maintenance procedures specified by the manufacturer of the control system and approved by the Administrator pursuant to the certification procedures in Appendix F.

(2) Notify the owner of the facility of any scheduled maintenance or malfunction requiring replacement or repair of major components of the system.

(3) Maintain records of all maintenance performed by the operator and any notification to the owner of any scheduled maintenance or malfunction requiring replacement or repair of major components of the system and the action taken by him. These records shall include the date and description of the maintenance performed, the date the need for maintenance or malfunction of major system components was reported to the owner, and the date the maintenance was performed or the malfunction was corrected by either the operator or the owner.

(4) Maintain gauges, meters, or other specified testing devices in proper working order and to provide access to these devices to authorized EPA personnel.

(e) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of a compliance schedule in paragraph (c) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

(f) Any owner or operator of a gasoline dispensing facility subject to this regulation which installs a gasoline dispensing system after the effective date of this regulation and before May 31, 1977, shall comply with the requirements of this section by May 31, 1977. Any owner or operator of a facility subject to this regulation which installs a gasoline dispensing system after May 31, 1977, shall comply with the requirements of this section at the time of installation.

2. Appendix F, Parts I through VI are added as follows:

Appendix F—Procedures for Obtaining Approval of Systems for Controlling Gasoline Vapor Emissions at Service Stations

This appendix sets forth general requirements, procedures, and test methods to be followed for the purpose of obtaining approval of service station vapor control systems. Two procedures are described: (1) a procedure to be followed to demonstrate compliance and obtain approval of a control system at an individual installation; and (2) a procedure to be followed to demonstrate the compliance capability and obtain approval of a control system of a specified design. The latter procedure involves testing one or more representative model. The results of such testing are applicable for determining the compliance capability and for obtaining approval of similar untested models.

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I. General Requirements Applicable to Certification of All Control Systems

1.1 Operating and Required Maintenance Manual. An operating and required maintenance manual shall be produced for each gasoline vapor control system approved pursuant to this appendix. The operating manual shall conform to the following and as a minimum contain the following information and data:

1.1.1 Identification of critical operating parameters affecting system operation (e.g., maximum dispensing rates; liquid to vapor flow rate ratios; pressures; exhaust concentrations; etc.). The operating range of these parameters associated with normal, in-compliance operation of the control system, shall be identified in the manual. These operating data shall be determined and/or verified during the performance test of the system. The Administrator reserves the right to designate critical operating parameters.

1.1.2 Identification of specific maintenance requirements and maintenance schedules necessary to insure on-going operation in compliance with the applicable standards. Maintenance requirements shall be clearly identified as being capable of performance by the operator, or as requiring authorized service only. Operating manuals shall provide clear instruction on how to perform operator maintenance and shall provide clear warnings against providing unauthorized service. Maintenance schedules shall be reasonable and at a minimum, reflect the rated life of individual components such as regulators, compressors, nozzles, pressure vacuum valves, catalysts, combustor components, etc. The reasonableness of maintenance schedules will be evaluated in terms of whether service station personnel could be reasonably expected to perform the required maintenance on the indicated schedule. Systems requiring unreasonable maintenance will be disapproved.

1.1.3 Identification of system components shall be included for each control system approved pursuant to Section III of this Appendix. Components shall, as applicable, be

identified by brand name, part number, and/or performance characteristics. The identification shall be sufficiently clear so as to allow determination of comparability between tested and untested models, and/or to allow determination of the adequacy of replacement parts.

1.2 Indicating Gauges and Alarms. Indicating gauges, alarms and/or detection devices shall be included in each control system approved pursuant to this Appendix. Such gauges and alarms shall, as applicable, include temperature and pressure indicators, pass/fail hydrocarbon detectors, etc. These shall be installed so as to indicate the performance of critical components such as compressors, carbon canisters, etc. The Administrator reserves the right to specify such devices which are considered necessary. Specific examples of necessary devices are: temperature indicators installed in control systems which utilize refrigeration as a control technique; pressure indicators installed in control systems which utilize compression as a control technique; hydrocarbon breakthrough detectors installed in control systems which utilize carbon adsorption or flexible bladders or seals as a control technique.

1.3 Testing Methods. Tests conducted for the purpose of obtaining approval of a control system shall be performed according to the applicable test methods set forth in Section IV of this Appendix or alternative test methods approved by the Administrator. Any such test shall be preceded by 30 days of normal operation of the gasoline service station with the control system in operation. During this thirty-day period, no maintenance, adjustment, replacement of components or other such alteration of the control system is allowed unless such action is specifically called for in the maintenance manual at respective intervals of less than 30 days. Any such alteration shall be recorded on the day on which the alteration was performed. This requirement for 30 days of unattended operation is intended as a demonstration of the minimum reliability of the control system. Failure to meet this requirement will be considered a failure to pass the performance test.

1.4 Notification. Any owner, operator, or vendor planning to conduct a test in accordance with paragraph 1.3 shall notify the Administrator 45 days in advance of any such test (15 days in advance of the pre-test operating period). The notification shall be accompanied by the submittal of an operating manual meeting the requirements of paragraph 1.1 of this Section. The system to be tested shall conform to the manual, and shall be equipped with appropriate indicating gauges and alarms as required in paragraph 1.2 of this Section. Testing conducted without prior notification as outlined in this paragraph, or testing of systems which do not conform to the submitted description may be considered as a basis for rejection of the test results.

1.5 Submittal of Results. Test results shall be submitted to the Administrator after completion of the performance test. These results shall include:

1.5.1 A record of any maintenance, adjustment, component replacement or other such alteration of the control system, made during the performance test or the 30 days preceding the test.

1.5.2 Copies of all field data sheets.

1.5.3 A description of any deviation from the prescribed test procedure.

1.5.4 An example calculation using actual data from the test.

1.5.5 Complete test results including, as appropriate, calculated calibration curves, potential emission curves, etc., and final results. Final results shall be expressed in terms of the applicable emission limitations and shall include operations over the entire test period. If certain vehicles were rejected from the calculation or if data was not obtained or used during any portion of the test period, this should be clearly noted along with appropriate explanation. When more than one test is conducted, pursuant to Section III of this Appendix, the mean results (weighted on a per vehicle basis) shall be calculated in terms of the applicable emission limitations. The mean results shall be used as a basis for determining the approvability of the control system.

1.6 EPA testing and right of entry. EPA reserves the right to conduct certification testing of systems at the location specified in the notification in Section 1.4. Notice of EPA's intention to conduct certification testing shall be provided within 14 days of receipt of the notification of intent to test. Whether EPA chooses to conduct the certification testing, or allows the system proponent to conduct the certification testing, the owner, operator, lessee, or vendor shall allow EPA representatives on the premises specified in the notification at any time during the thirty day pre-test operation period or the certification testing. Failure to allow EPA to conduct the testing or failure to allow EPA representatives on the premises during the thirty day pre-test operation period or actual testing period shall result in failure of the system to be certified.

1.7 Retesting of systems failing to meet performance criteria. Control systems which fail to meet performance criteria for applicable gallonage levels shall be allowed to be retested on the following basis:

(a) Any system which fails to meet applicable emission criteria will be allowed to retest only if the result of the initial testing and any subsequent testing are combined. The mean results of all testing (weighted on a per vehicle basis) shall be calculated in terms of the applicable emission limitations.

(b) Systems may be allowed to retest and discard initial test results only if such initial tests were invalid or if significant and substantial modifications are made to the control system. The Administrator shall make such determinations.

II. Procedures Applicable to Testing and Approval of Control Systems at Individual Installations

2.1 Testing Requirements. Any owner, operator, or vendor electing to demonstrate compliance and obtain approval of a control system at an individual installation shall conduct a performance test of the control system installed at that installation.

2.2 Throughput Requirements. During the period of any performance test performed pursuant to paragraph 2.1, the service station should be operating at 75% or more of the maximum daily throughput. If this throughput is not attained, and engineering evaluation cannot demonstrate the control system to be capable of attaining compliance at higher throughput, the system will not be approved for higher throughput.

III. Procedures for Demonstrating Compliance of Similar Systems by Testing Representative Models

3.1 Testing Requirements. An owner or operator electing to demonstrate the compliance capability and obtain approval of a product line or group of control systems of similar design shall conduct performance tests on five representative models. Alternatively the Administrator will consider other tests and/or engineering data submitted for the purpose of demonstrating compliance capability. As a minimum, one representative model shall be tested.

3.2 Throughput Requirements. EPA approval pursuant to testing according to this Section will be based upon the maximum daily throughput at which the systems have been tested. The approval will not be applicable for higher throughput unless it can be demonstrated through engineering evaluation and/or other data that the system is capable of complying under conditions of higher throughput.

3.3 Approval of Similar Systems for Greater or Less Capacity. For systems which are identical in design and include similar components to systems tested and approved pursuant to subparagraph 3.2, but differ, primarily in size, the owner or vendor may demonstrate compliance capability and obtain approval by submitting engineering and/or test data demonstrating the relationship between capacity and throughput of each component whose performance is a function of throughput. Examples of such components include: blowers, catalyst, carbon or other adsorbant, compressors, heat exchangers, combustors, piping, etc. As practical, test data should cover a range which will allow assessment of size/capacity relationships based on interpolation; extrapolation should be avoided. EPA will consider such data and may on the basis of these data, approve models which involve similar designs and components, but which differ in size and capacity from those tested.

IV. Field Test Procedures for Stage I and Stage II Control Systems

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9. Calibration Procedures.

1. *Principal.*

Hydrocarbon mass emissions are determined directly and indirectly using flow meters and hydrocarbon analyzers. The volume of liquid gasoline dispensed (or transferred to the underground tank) is determined. Results are expressed in terms of grams emitted per gallon dispensed (or control efficiency for underground tank fillings).

2. *Applicability.*

This method is applicable to determining emission rates during normal operation of gasoline service stations employing vapor balance or vacuum assist type of control systems. The method is applicable to both vehicle refueling and underground tank filling operations at service stations employing either type of control systems.

3. *Definitions.*

3.1 Potential emissions. As used in this method, the term "potential emissions" means the vapor emissions which would be returned to the underground tank during stage II refueling operations employing vapor balance equipment, when no vapor escapes to the atmosphere from the vehicle tank or the nozzle/fillneck interface.

3.2 Vapor balance or displacement vapor recovery system. A gasoline vapor control system which uses direct displacement to force vapors into the underground tank (or bulk delivery tank) or otherwise prevent the emission or displaced vapors to the atmosphere during stage I and/or stage II operations.

3.3 Vacuum assisted or secondary system. A gasoline vapor control system which employs a pump, blower, or other vacuum inducing device to collect and/or process vapors generated during stage II and/or stage II operations.

3.4 Stage I. Underground tank refilling operations.

3.5 Stage II. Vehicle refueling operations.

3.6 Automatic Nozzle. A nozzle which is capable of dispensing fuel without being hand held.

4. *Summary of the Methods.*

This procedure describes test conditions and test procedures to be followed in determining hydrocarbon emission rates from vapor balance and vacuum assisted systems installed to control emissions resulting from vehicle refueling operations and from underground tank refilling operations. Four procedures are included applicable to the four respectively noted systems and operations. A summary of each procedure is provided in the following paragraphs.

4.1 Stage I operations at vapor balance systems. Direct measurements of vent losses are made for determination of emission losses and system efficiency of vapor balance collection systems during bulk deliveries to gasoline service stations. The volume of vapors exhausted to the atmosphere during a bulk delivery are measured. Control efficiency is determined from the ratio of volume emitted (corrected to the temperature of the underground tank) divided by the volume of gasoline delivered.

4.2 Stage II operations at vapor balance systems. This procedure is performed during normal operation of the service station. Under the procedure hydrocarbon losses at the vehicle are determined indirectly by measuring the mass of hydrocarbons collected at the vehicle and comparing that mass with potential mass emissions calculated for that vehicle. The difference between the potential mass emissions and the mass actually collected is considered to be the mass emitted to the atmosphere at the vehicle. Potential mass emissions are determined by measuring the mass of hydrocarbon collected during the refueling of vehicles from which no leaks occurred during refueling. Potential emissions are expressed as a function of the difference between the dispensed gasoline temperature and the temperature of the gasoline in the vehicle tank. In addition to losses at the vehicle, hydrocarbon losses from the underground tank are determined by direct measurement. Total mass emissions are determined by adding the losses to the atmosphere occurring at the vehicle to the losses occurring from the underground tank vent.

Alternately, potential emissions may be determined from empirical or theoretically derived equations and may be used to calculate a baseline if, and at such time that equations become available and are verified as to accuracy. Results are expressed as mass of hydrocarbons emitted per unit volume of fuel dispensed.

4.3 Stage I operations at vacuum assisted systems. Direct measurements of volume and hydrocarbon concentration of exhaust gases are made in order to determine efficiency of the secondary system to control vapors lost during bulk gasoline deliveries. All possible points of emissions are checked for vapor leaks and estimates or direct measurements of leaks are made and are included in the emission calculations.

4.4 Stage II operations at vacuum assisted systems. Emissions are determined by direct measurement during normal operation of the service station. Hydrocarbon mass emitted from the exhaust of the secondary control device is measured. All points of possible emissions are checked for vapor leaks and estimates or direct measurements of leaks are made. These vapor losses are added to the emissions from the secondary control device and are included in calculating total emission. Results are expressed in terms of mass of hydrocarbons emitted per unit volume of gasoline dispensed from the system. The method includes a mass balance procedure to verify that any leaks are taken into account. A mass balance calculation showing unaccounted vapor losses voids the emission test.

5. *Test Scope and Conditions Applicable to Stage II Testing.*

5.1 Test Period. The elapsed time during which the test is performed shall not be less than three days.

5.2 Number of vehicles to be tested.

5.2.1 Vapor Balance Systems. A minimum of 100 vehicles shall be refueled at pumps being used to perform tests according to the procedures of Section 7.1. At least 20 leak-free fillings shall be made in accordance with the procedures of subsection 7.2.3. Potential emissions from a vehicle may vary as a function of volume of fuel delivered per available fuel tank capacity. It is suggested, therefore, that only vehicles receiving more than minimum delivery of gasoline (more than 10 gallons or more than one-half tank, whichever is less, or a fill-up) be included in the test data. Any such rejection criteria shall be established prior to the test.

5.2.2 Vacuum Assist Systems. A minimum of 100 vehicles shall be refueled at pumps being monitored according to the procedures 7.4.2.

5.3 Station status during test period. The test procedure is designed to measure control efficiency under conditions of normal operation. Normal operation will vary from station to station and from day to day. Therefore, no specific criteria are set forth to define normal operation. The following guidelines are provided to assist in determining normal operation.

5.3.1 Closing of pumps. During the test period, at least two pumps shall be open and utilized on each product line which is controlled by the device or is interconnected into the system under test. If product lines involve no interconnection of liquid or vapor lines and do not share control equipment, the product line not being tested may be closed.

5.3.2 Acceptance of vehicles. During the test period, no vehicle arriving for the purpose of refueling from the product under test shall be turned away. No other measures shall be employed which would limit the number of vehicles which would normally be served on a daily basis, from the product line under test.

5.3.3 Simultaneous use of more than one pump shall occur to the extent that such use would normally occur.

5.3.4 Dispensing rates shall be set at the maximum rate at which the equipment is designed to be operated. This maximum rate shall be used during refueling. Where fillneck configuration prevents filling at maximum rate, fill rates may be limited according to normal procedures.

5.3.5 Where automatic nozzles are employed, filling shall be accomplished "hands off." Only such "hands off" fillings shall be considered valid for the purposes of this method. Where this is not possible, hand held operation is acceptable. Included in such situations is the case where the dispensing nozzle would fall out of the vehicle fillneck if not hand held in place. Such "hand held" fillings shall not be included in the calculations under this method.

5.4 Distribution of vehicles by make and model. The distribution of vehicles refueled during the test period at any single station is not required to conform within any specified limits unless the test results are intended to be used as an example to demonstrate conformance at other untested stations. In such case the vehicle distribution should be reasonably representative of the U.S. on the road vehicle distribution. Specific consideration should be given to vehicle make and to the ratio of pre-1971 versus post 1970 vehicles (pre-1970 versus post 1969 in California).

In order to conform to such distribution, as necessary, proration of the vehicles tested in each class may be made. The purpose of such proration would be to bring the tested distribution into conformance with the actual U.S. vehicle distribution.

5.5 Ambient temperature. Tests of vehicle refueling emissions are not required on any day during which the maximum one hour temperature does not exceed 65° F. If this temperature is not attained on any test day, the test results for that day may be disregarded. In such case an additional day of valid results shall be obtained. If the ambient temperature during the day of testing exceeds 85°F, only those results of tests conducted prior to the hour 85°F is reached shall be considered valid.

5.6 Dispensed fuel RVP. The RVP of the fuel dispensed during the test shall be within the range which is normal for the geographic location and time of year of the test, but in no case shall be less than 8.5 RVP.

6. *Basic Measurements and Equipment Required.*

6.1 Stage I. Operations at vapor balance systems.

6.1.1 Basic measurements required—The sampling points are numbered and shown in Figure 1. Some measurements are noted as optional. These are not necessary in the determination of emission rate, but can assist in evaluating the performance of the vapor recovery system.

Sample point	*Measurements necessary*
1 (vent outlet for underground tank).	Volume of vapors exhausted.
2 (underground tank)-----	Temperature of liquid. Volume of liquid.
3 (bulk delivery tank)-----	Temperature of liquid (optional). Pressure in tank (optional). Check for hydrocarbon leaks at all connections.

6.1.2 The equipment required for the basic measurements are listed below. Alternative equipment may be used subject to the approval by the Administrator.

Sample point	*Equipment and specifications*
1	1 dry gas volume meter (3 cfm).
2	1 flexible thermocouple with readout (range 0–100°F).
3	1 flexible thermocouple with readout (range 0–100°F). 1 0–10" H_2O manometer. 1 portable combustible gas detector (at least 0–100% lower explosive limit range).

6.2 State II operations at vapor balance systems.

6.2.1 Basic measurements required are described below. Some measurements are noted as optional. These are not necessary in the determination of emission rate, but can be of value in the description and explanation of the operation of the vapor recovery system. Referring to Figure 1, the various sampling points in the system are numbered.

Sample point	*Measurements necessary*
4 (dispensing nozzle and vehicle fillneck).	Check for gasoline vapor leaks around nozzle-fillneck interface during refueling. Temperature of vehicle tank gasoline prior to refueling. Hydrocarbon concentration of returned vapors. Temperature of returned vapors during refueling (optional). Temperature of dispensed gasoline during refueling. Leak check after refueling.
5 (vapor return hose)	Volume of gasoline vapors returned. Pressure in vapor return line (optional).
6 (gasoline meter and pump).	Volume of gasoline dispensed for each vehicle. Volume of gasoline dispensed during test period.
1 (vent outlet for underground tank).	Volume of vapors exhausted via solenoid valve device (Figure 3). Hydrocarbon concentration of exhausted vapors.
2 (underground tank)	Temperature of liquid in underground tank (optional). Volume of liquid. Sample for Reid vapor pressure analysis.

6.2.2 The equipment required for the basic measurements are listed below. Alternative equipment may be used subject to approval of the Administrator.

Sample point	*Equipment and specifications*
4[1]	1 portable combustible gas detector (at least 0–100% of lower explosive limit range). 3 flexible thermocouples (range 0–105°F) and recorders. 1 total hydrocarbon analyzer and recorder equipped to readout 0–100% HC as propane (FID or NDIR types are recommended). 1 leak check system (Figure 4) (only 1 required).
5[1]	1 dry gas volume meter[2] and liquid trap (3 cfm). 1 0–1" H_2O manometer-inclined.
1	1 dry gas volume meter (3 cfm). 1 pressure-vacuum solenoid valve system (Figure 3). 1 total hydrocarbon analyzer and recorder equipped to readout 0–100% HC as propane (FID or NDIR types are recommended).
2	1 flexible thermocouple with readout (0–100°F range). 1 gasoline sample thief (ASTM 0–R70).

[1] Equipment indicated is required at each pump being tested.

6.3 Stage I operations at vacuum assisted systems.

6.3.1 Basic measurements required are described below. Referring to Figure 2, the sample points are numbered. The measurements indicated provide for the inclusion of the secondary control device efficiency. These are not required to determine compliance with an applicable subpart if it can be shown through volume measurements, that the secondary control device is not needed to comply with the respective subpart.

Sample point	*Measurements necessary*
1 (inlet to control device)	Hydrocrabon concentration.
2 (exhaust vent of control device).	Volume of exhaust vapors. Hydrocarbon concentrations.
3 (underground tank vent)	Check for hydrocarbon vapor leaks.
4 (underground tank)	Temperature of liquid (optional). Volume of liquid.
5 (tank of bulk delivery truck).	Temperature of liquid (optional). Pressure (optional). Check for hydrocarbon vapor leaks at all connections.

[1] Equipment indicated is required at each pump being tested.
[2] See paragraph 8.2.4.9.

6.3.2 The equipment required for the basic measurements are listed below. Alternative equipment may be used subject to the approval of the Administrator.

Sample point	*Equipment and specifications*
1	1 total hydrocarbon analyzer with recorder equipped to readout 0–100% HC as propane (FID or NDIR types are recommended).
2	1 volume dry gas meter (size depends on flow rate). 1 total hydrocarbon analyzer with recorder equipped to readout 0–100% HC as propane (FID or NDIR types are recommended).
3	Plastic bags (1–5 ft^3).
4	1 flexible thermocouple with readout (range 0–100°F).
5	1 flexible thermocouple with readout (range 0–100°F). 1 0–10" H_2O manometer. 1 combustible gas detector (0–100% LEL).

6.4 Stage II operations at vacuum assisted systems.

6.4.1 Basic measurements required are described below. Referring to Figure 2, the various sampling points in the system are numbered.

Sample point	*Measurements necessary*
6 (dispensing nozzle)	Temperature of vehicle tank gasoline prior to refueling (optional). Check for gasoline vapor leaks around nozzle-fillneck interface during refueling with combustible gas detector. Hydrocarbon concentration of returned vapors. Temperature of dispensed liquid (optional). Temperature of returned vapors (optional).
7 (vapor return line)	Volume of returned vapors. Pressure in vapor return line (optional).
8 (gas meter and pump)	Volume of gasoline dispensed during test period. Volume of gasoline dispensed for each vehicle used during tests.
1 (inlet to secondary control device).	Volume of gasoline vapors returned to control device. Hydrocarbon concentration of inlet vapors.
2 (exhaust vent of control device).	Volume of exhaust vapors. Hydrocarbon concentration of exhaust gases.
3 (underground tank vent)	Check for gasoline vapor leaks.
4 (underground tank)	Temperature of liquid in underground tank (optional). Volume of liquid. Sample for Reid vapor pressure analysis.

6.4.2 The equipment required for the basic measurements are listed below. Alternative equipment may be used subject to the approval of the Administrator.

Sample point	*Equipment and specifications*
6	3 flexible thermocouples (range 0–150°F). 1 portable combustible gas detector (at least 0–100% lower explosive limit). 1 total hydocarbon analyzer with recorder equipped to read out 0–100% HC as propane (FID or NDIR types are recommended).
7	1 volume dry gas meter (size depends on flow rate).
1	1 volume dry gas meter (size depends on flow rate). 1 total hydrocarbon analyzer and recorder equipped to read out 0–100% HC as propane (FID or NDIR types are recommended).
2	1 volume dry gas meter (size depends on flow rate). 1 total hydrocarbon analyzer and recorder equipped to readout 0–20% HC as propane (FID or NDIR types are recommended).
3	Plastic bags (1–5 ft^3).
4	1 flexible thermocouple and readout (range 0–100°F). 1 gasoline sample thief (ASTM 0–270).

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7. *Test Procedures*

7.1 Stage I operations at vapor balance systems.

7.1.1 Preparations for the testing include the following:

7.1.1.1 On the exhaust vent of the underground tank connect a dry gas meter.

7.1.2 Measurements and data required for evaluating the bulk tank truck drop include the following:

7.1.2.1 Record the temperature of the liquid in the bulk tank of the truck. (optional)

7.1.2.2 Attach a 0–10" H_2O manometer to the vapor return manifold on the truck so as to monitor and record the pressure inside the tank during the drop. (optional)

7.1.2.3 Record the temperatures (optional) and volumes of the liquid in the underground tanks that are to receive the gasoline delivery.

7.1.2.4 Record the time (optional) required for the drop and record the volume of liquid transferred.

7.1.2.5 During the transfer monitor all hose connections with the combustible gas detector and record any incidents of leaks. Record any incidents of spillage and estimate amounts.

7.1.2.6 Record any volume vented from the underground tank vent.

7.1.2.7 During the gasoline transfer, record the pressure inside the tank of the bulk delivery truck. (optional)

7.1.2.8 After the transfer hoses are disconnected, record volumes and temperatures (optional) of the underground tanks.

7.1.2.9 Record the volume of gasoline dispensed to vehicles during the bulk gasoline transfer.

7.1.2.10 Record the ambient temperature and pressure. Ambient temperature shall be measured with an aspirated thermometer shielded from radiation effects of sunlight.

7.2 Stage II operations at vapor balance systems.

7.2.1 Preparations for the testing include the following:

7.2.1.1 Connect into the vapor return line (sample point 5 on Figure 1) a dry gas volume meter. On the outlet of the meter, attach a tap for a sample hose. Connect the liquid trap upstream of the dry gas meter.

7.2.1.2 Connect to one tap a 0–1" inclined manometer. (optional)

7.2.1.3 Between the hoses and the dispensing nozzle (sample point 4 on Figure 1) place a connector that allows for the insertion of a thermocouple in the liquid dispensing line. This must be leak tight. A similar thermocouple connection in the vapor return line is optional. A second tap in the vapor return line connection for a sample hose is necessary for the THC analyzer.

7.2.1.4 Attach flexible thermocouples so that the dispensed gasoline temperature and the returned vapor temperature (optional) are detected. Connect these thermocouples to recorders so that records of the temperatures are kept during refueling.

7.2.1.5 Connect to the second tap in the vapor return hose nozzle connection a sample line for a total hydrocarbon analyzer. The sample pump for the THC analyzer should draw no more than 300 cubic centimeters per minute of sample. Arrangements should be made so that the sample line may be disconnected from the vapor return line when no refueling is in progress.

7.2.1.6 At the outlet of the underground vent (sample point 1 on Figure 1) connect a pressure sensitive solenoid valve system (Figure 3) that routes in-breathing and out-breathing through different ports. Arrange pressure switches so that one opens one solenoid valve at a negative pressure and the other pressure switch opens another valve at a positive pressure. These pressures should be less than |0.2| inches of water.

7.2.1.7 On the out-breathing port of this valve connect a dry gas meter with a tap on the outlet side for a total hydrocarbon analyzer sample. Connect the THC analyzer.

7.2.1.8 Calibrate and span all instruments according to the steps outlined in section 9.

7.2.1.9 On each day of the testing record initial and final volume readings from all pumps at the service station. Record initial and final underground tank temperatures (optional) and volumes. (Sample points 6 and 2 on Figure 1.)

7.2.1.10 At the beginning of the testing period determine the liquid flow rate of the nozzles to be used in the testing in each of the latched positions. This shall be done by pumping at least 10 gallons of gasoline in each latched position and recording the amount of gasoline pumped and the elapsed times for the pumping.

7.2.1.11 At the beginning of the testing period and every hour during the testing period, record the ambient temperature and pressure. Ambient temperature shall be measured with an aspirated thermometer shielded from the radiation effects of sunlight.

7.2.1.12 At the beginning of the test period, obtain a gasoline sample from the underground tank under test according to procedure outlined in ASTM 0–270, part 27. Have the sample analyzed to determine Reid Vapor Pressure according to ASTM 0–323.

7.2.2 Measurements and data required for each automobile used for the vehicle refueling test include the following:

7.2.2.1 Record license number, State of registration, make, model (optional), and year of each car tested.

7.2.2.2 Measure and record the temperature of the gasoline in the tank of the vehicle.

7.2.2.3 Time the refueling operation so as to obtain the total time interval for dispensing gasoline (optional) and the total time interval that the nozzle is attached to the vehicle fillneck (optional).

7.2.2.4 During refueling check around the vehicle fillneck-nozzle interface with the combustible gas detector, the sample inlet held approximately 1 cm from the interface. Explore with the sample probe the entire periphery during the complete refueling operation and for at least ten seconds after shutoff. Record any incidents of detectable leaks of hydrocarbon vapors. This step is required only for those vehicles which are required for possible use in determining potential emissions under 7.2.3.

7.2.2.5 After the refueling operation begins record the pressure in the vapor return line (optional).

7.2.2.6 At the end of the refueling, record the volume of gasoline dispensed and the final volume reading on the dry gas meter in the vapor return line.

7.2.2.7 Record any incidents of spitback or spillage and estimate amounts.

7.2.3 For vehicles that are to be used for determination of potential emissions, the following steps are required in addition to those listed previously.

7.2.3.1 Prior to refueling determine whether the automobile has an evaporative emission control carbon cannister (most post 1970 vehicles) or an atmospheric vent (pre-1970 vehicles). For those vehicles with atmospheric vents attach the manometer to the vent outlet effectively blocking the outlet. During refueling monitor this pressure in the vehicle tank.

7.2.3.2 As necessary equip the dispensing nozzle with a flexible seal that prevents vapor leaks at the fillneck-nozzle interface. During refueling force a good seal at this interface and check for leaks with the combustible gas detector.

7.2.3.3 Fill the vehicle tank to within 2–3 gallons of complete filling. After stopping of dispensing, maintain a tight seal at the fillneck-nozzle interface until the vehicle tank pressure reaches 0" H_2O or less and the vapor line pressure reaches 0" H_2O or less.

7.2.3.4 After refueling, leak check the vehicle tank with the equipment shown in Figure 4 at a pressure of 3" H_2O. Record any incidents of leaks.

7.2.4 The leak test procedure is as follows:

7.2.4.1 Test equipment.

a. Nitrogen cylinder.
b. Manual gas flow valve.
c. Liquid holding tank.
d. Glass tube straight, ¼" I.D. x 12" long.
e. Flexible plastic tubing, 10" long x ¼" diameter.
f. 10 cfh rotameter (less than ½" H_2O pressure drop recommended).
g. Size 11½ rubber stopper.
h. Plastic "T", ¼" I.D.
i. Mounting board with change for glass tube.

7.2.4.2 Connect nitrogen cylinder, flow valve, straight glass tube, flexible tubing, flow meter, and rubber stopper as shown in Figure 4.

7.2.4.3 Mount the equipment on the mounting board.

7.2.4.4 Fill the liquid holding tank to at least 6" depth with water.

7.2.4.5 For those automobiles with evaporative emission control canisters, find the hose leading from the fuel tank to the cannister. Clamp this line tightly to prevent any leakage. For those vehicles with atmospheric vents, block the vent opening to prevent any leakage during the leak test. Some atmospheric vents lead to the tank fillneck (cap vented tanks) and need not be blocked.

7.2.4.6 Place open end of glass tube beneath the surface of the water in the holding tank and measure ΔH. Set at 3" H_2O.

7.2.4.7 Place rubber stopper of vehicle tank fillneck and hold firmly to prevent leaks.

7.2.4.8 Allow nitrogen to flow by opening the valve until bubbles flow at the open end of the tube submerged in the holding tank.

7.2.4.9 Adjust the flow until the bubble just appears at the bottom of the glass tube and record the flow rate from the flow meter. This flow rate is the leak rate.

7.2.4.10 Repeat steps 7.1.4.7 and 7.1.4.8 for varying ΔH's. Vary from ½" to 3" H_2O. (optional)

7.3 Stage I operations at vacuum assisted systems.

7.3.1 Preparations for the testing include the following:

7.3.1.1 Connect to the exhaust vent of the control device (sample point 2 of Figure 2) a dry gas volume meter. Attach a tap for a sample hose to the outlet of the volume meter.

7.3.1.2 Connect to the tap a THC analyzer capable of measuring 0–20% HC as propane.

7.3.1.3 Over any underground vent with or without a pressure-vacuum valve, attach a plastic bag effectively capturing any leakage from the vent. (Sample point 3 of Figure 2)

7.3.2 Measurements and data required for evaluating the bulk tank truck delivery include the following:

7.3.2.1 Record the temperature of the liquid in the bulk tank of the truck. (optional)

7.3.2.2 Attach a 0–10" H_2O manometer to the vapor return manifold on the truck so as to monitor the pressure inside the tank during the delivery. (optional) (sample point 5 on Figure 2)

7.3.2.3 Record the temperatures and volumes of the liquid in the underground tanks that are to receive the gasoline delivery.

7.3.2.4 Record the time (optional) required for the drop and record the volume of liquid transferred.

7.3.2.5 During the transfer monitor all hose connections with the combustible gas detector and record any incidents of leaks. Record any incidents of spillage and estimate amounts.

7.3.2.6 Record the volume entering the secondary control device and the corresponding temperature.

7.3.2.7 Record any volume vented from the vent of the control device and record the corresponding concentration.

7.3.2.8 During the gasoline transfer, record the pressure inside the tank of the bulk delivery truck. (optional)

7.3.2.9 After the transfer hoses are disconnected record volumes and temperatures (optional) of the underground tanks.

7.3.2.10 Record the volume of gasoline dispensed to vehicles during the bulk gasoline transfer.

7.3.2.11 Record any incidents of leakage from the vent outlet from the underground tank by noting filling of the bag over the vent. Estimate the volume and elapsed time for the leakage.

7.3.2.12 Record ambient temperature and pressure. Ambient temperature shall be measured with an aspirated thermometer shielded from the radiation effects of sunlight.

7.4 Stage II operations at vacuum assisted systems.

7.4.1 Preparations for the testing include the following:

7.4.1.1 Connect into the vapor return line (sample point 7 on Figure 2) a dry gas volume meter. On the outlet of the meter, attach one tap for a sample hose. Connect the liquid trap upstream of the dry gas meter.

7.4.1.2 Connect to tap a 0–10" inclined manometer. (optional)

7.4.1.3 Between the hoses and the dispensing nozzle (sample point 6 on Figure 2) place a connector that allows for the insertion of a thermocouple in the liquid dispensing line. This must be leak tight. A similar thermocouple in the vapor return line is optional. A second tap in the vapor return line is necessary for the THC analyzer.

7.4.1.4 Attach flexible thermocouples so that the dispensed gasoline temperature and the returned vapor temperature (optional) are detected. Connect these thermocouples to recorders so that records of the temperatures are kept during refueling.

7.4.1.5 Connect to the second tap in the vapor return line nozzle connection a sample line for a total hydrocarbon analyzer capable of measuring 0–100% HC as propane. The sample pump for the THC analyzer should draw no more than 300 cubic centimeters per minute of sample. Arrangements should be made so that the sample line may be disconnected from the vapor return line when no refueling is in progress.

7.4.1.6 Connect to the inlet to the secondary control system (sample point 1 on Figure 2) a dry gas flow meter. Determine approximately what the flow rate will be in this line and choose an appropriately sized meter. Attach a tap for sample hose on the outlet of the volume meter.

7.4.1.7 Connect to the tap a THC analyzer capable of measuring 0–100% HC as propane. The analyzer should be equipped with a recorder.

7.4.1.8 Connect to the exhaust vent of the secondary control device (sample point 2 of Figure 2) an appropriately sized dry gas flow meter. Attach a tap for a sample hose to the outlet of the volume meter.

7.4.1.9 Connect to the tap a THC analyzer with recorder capable of measuring 0–20% HC as propane.

7.4.1.10 Over any underground vent with or without a pressure vacuum valve, attach a plastic bag effectively capturing any leaks from the vent. (Sample point 3 of Figure 2)

7.4.1.11 Calibrate and span all instruments as outlined in Section 9.

7.4.1.12 At the beginning of the test period, obtain a gasoline sample from the underground tank under test according to ASTM 0–270, part 27. Analyze the sample to determine the Reid Vapor Pressure according to ASTM 0–323.

7.4.2 Measurements and data required for determining system emission rates during vehicle refueling include the following:

7.4.2.1 Record the temperature (optional) of the liquid in each underground tank as well as volume. (Sample point 4 on Figure 2.)

7.4.2.2 Each day of the test record the initial liquid volume readings on each pump at the service station at the beginning of the test. Each day, record the final liquid volume pump readings at the completion of the test day.

7.4.2.3 Record the initial volume readings from the dry gas volume meters at the inlet and outlet of the secondary control device at the beginning of the test.

7.4.2.4 At the beginning of the testing period and each hour during the testing period, record the ambient temperature and pressure. Ambient temperature shall be measured with an aspirated thermometer shielded from the radiation effects of sunlight.

7.4.2.5 Record license number, State of registration, make, model (optional), and year of each car tested.

7.4.2.6 Measure and record the temperature of the gasoline in the tank of the vehicle.

7.4.2.7 Prior to refueling record the initial dry gas meter reading.

7.4.2.8 Time the refueling operation so as to obtain the total time interval for dispensing gasoline (optional) and the total time interval that the nozzle is attached to the vehicle fillneck (optional).

7.4.2.9 After the refueling operation begins record the pressure in the vapor return line (optional).

7.4.2.10 During refueling, check around the vehicle fillneck-nozzle interface with the combustible gas detector with the sample inlet held approximaely 1 cm from the interface. Explore with the sample probe the entire periphery during the complete refueling operation and at least ten seconds after shutoff. Record any incidents of detectable leaks of hydrocarbon vapors and the magnitude in terms of percent of lower explosive limit. Record the highest explosimeter reading (expressed as % LEL) which occurs for a duration of 10 seconds or more.

7.4.2.11 At the end of the refueling, record the volume of gasoline dispensed and the final volume reading on the dry gas meter. Record the average hydrocarbon concentration from the total hydrocarbon analyzer.

7.4.2.12 Record any incidents of spillback or spillage (as defined in any applicable subpart) and estimate amounts.

7.4.2.13 Monitor and record the HC concentration of vapors at the inlet and the outlet of the secondary control device. Keep a record of volume readings associated with any changes in HC concentration.

7.4.2.14 Record any incidents of leakage from the vent outlet from the underground tank by noting any filling of the bag over the vent. Estimate the volume and elapsed time for the leakage.

8. *Calculations*

8.1 Stage I operations at vapor balance systems.

8.1.1 Terminology.

V_s = Volume of hydrocarbon vapors exhausted from the underground tank vent line (ft^3).
V_f = Final volume reading on dry gas meter (ft^3).
V_i = Initial volume reading on dry gas meter (ft^3).
M_s = Mass of exhausted hydrocarbon vapors (g).
C_s = Concentration of exhausted hydrocarbons (%/100 as propane).
P_a = Ambient pressure (inches Hg.).
T_a = Ambient temperature (°F).
T_u = Underground tank temperature (°F).
E_{vol} = Volume efficiency of collection (%).
E_{mass} = Mass efficiency of collection (%).
V_l = Volume of liquid transferred (gal).
V_k = Estimated leakage volume not measured at vent (ft^3).

8.1.2 Determine for the bulk loading evaluation:

8.1.2.1 The volume of hydrocarbon vapors exhausted from the underground tank vent line.

$$V_s = V_f - V_i + V_k$$

8.1.2.2 Volume of liquid dropped from the tank truck to the bulk tank during the test period—V_l. Compare the underground tank readings before and after the drop with the volume reported dropped. If an inconsistency occurs, take steps to correct the volume value.

8.1.2.3 Calculate the volume efficiency.

$$E_{vol} = 100 - 748.1 \frac{V_s(T_u + 460)}{V_l(T_a + 460)}$$

8.1.2.4 Assume that the concentration of hydrocarbon vapors emitted from the exhaust vent is the same as for the vapors returned to the tank truck so that the mass efficiency is:

$$E_{mass} = E_{vol}$$

8.2 Stage II operations at vapor balance systems.

8.2.1 Terminology.

V_r = Net returned vapor volume (ft^3).
V_f = Final volume meter reading in vapor return hose (ft^3).
V_i = Initial volume meter reading (ft^3).
V_l = Dispensed liquid volume (gal).
V/L = Vapor volume to liquid volume ratio.
t = Fill time (min).
R_d = Gasoline dispensing rate (gal/min).
T_v = Vehicle tank temperature (°F).
T_u = Underground tank temperature (°F).
T_d = Dispensed liquid temperature (°F).
T_r = Returned vapor temperature (°F).
M_r = Mass of returned hydrocarbons (g).
C_r = Hydrocarbon concentration in vapor return line (% as propane).
M/L = Mass of hydrocarbon returned to dispensed liquid volume ratio (g/gal).
C_s = Hydrocarbon concentration in vented exhaust gas (%/100 as propane).
V_s = Volume of vented exhausted gas (ft^3).
M_s = Mass of hydrocarbon exhausted from the underground tank vent (g).
P_a = Ambient pressure (inches Hg).
T_a = Ambient temperature (°F).
$(M/L)_s$ = Mass emission rate (g/gal).

8.2.2 Determine for all automobiles used for the testing.

8.2.2.1 Volume of returned vapors.

$$V_r = V_f - V_i$$

8.2.2.2 Volume to liquid ratio.

$$V/L = 7.481 \frac{V_r}{V_l}$$

8.2.2.3. Dispensing rate.

$$R_d = \frac{V_l}{t}$$

8.2.2.4 Vehicle tank—underground tank temperature difference.

$$\Delta T_{vu} = T_v - T_u$$

8.2.2.5 Vehicle tank—dispensed liquid temperature difference.

$$\Delta T_{vd} = T_v - T_d$$

8.2.2.6 Standard returned vapor volume.

$$V_{rs} = \frac{17.71\ V_r P_a}{T_a + 460}$$

8.2.2.7 Mass of hydrocarbon vapor returned.

$$M_r = 51.7\ V_{rs} C_r$$

8.2.2.8 Mass returned to volume dispensed ratio.

$$M/L = \frac{M_r}{V_l}$$

8.2.3 For the potential emissions baseline curve complete the following steps.

8.2.3.1 From the total list of automobiles, separate all automobiles that had the vent lines from the vehicle tank blocked and/or were force-fit at the nozzle-fillneck interface. Of these vehicles, identify those which had no hydrocarbon leaks at the nozzle-fillneck interface and no leaks in the vehicle tank when leak tested. These automobiles and the measured data for them will be used for the potential emissions baseline curve. All other force-fit automobiles or vehicles fueled while vent lines were physically blocked will be omitted from any further data analyses.

8.2.3.2 Calculate and plot for the baseline vehicles a least-squares straight line curve using V/L as the dependent variable and ΔT_{vu} as the independent variable. (optional)

8.2.3.3 Calculate and plot for the baseline vehicles a least-squares straight line curve using M/L as the dependent variable and ΔT_{vd} as the independent variable. Alternately, a nonlinear parametric curve may be derived if such a curve provides equal or better correlation as compared to the linear curve. In accordance with paragraph 4.2 which provides for the poteatial use of theoretically derived baseline curves, theoretically derived curves may, subject to approval, be produce dand verified with the M/L, ΔT_{vd} and other data collected from the baseline vehicles. If this is done, complete supporting data and identification of all parameters used in the derived curves shall be supplied.

8.2.4 To determine the mass emission rate for automobiles filled in the normal manner, complete the following steps.

8.2.4.1 Eliminate from the data set all vehicles that were force-fit at the nozzle-fillneck interface or were hand held during refueling, including those that were not used for the baseline determination. Every effort must be made during the vehicle refueling testing program to insert dispensing nozzles into the vehicle fillnecks so that the nozzles may be latched in place to allow for dispensing in a hands-off manner. Where this is not practical or normal practice, hand held dispensing is allowed, but data from such tests shall be deleted from any analysis.

8.2.4.2 Using the least-squares curve calculated in section 8.2.3.3, determine for each car a value for M/L at the respective ΔT values. This will be called the potential mass returned to liquid ratio $(M/L)_{pot}$.

8.2.4.3 Determine for each automobile the mass of potential returned vapors, M_{pot}.

$$M_{pot} = V_l (M/L)_{pot}$$

8.2.4.4 Sum the masses of potential returned vapors, ΣM_{pot}.

8.2.4.5 Sum the masses of returned vapors, ΣM_r, found in Section 8.2.2.7 for all tested vehicles excluding the force-fit automobiles and/or those with blocked vent lines.

8.2.4.6 Determine the total volume of gasoline dispensed at the service station during the testing period. If the vapor recovery system is such that different gasoline products have separate vent lines, determine the dispensed volume only for the product or products used for the test. This value is V_s. Compare the daily underground tank volume readings with the daily pump volume readings. If an inconsistency occurs, determine the correct value.

8.2.4.7 Calculate the mass of hydrocarbons lost through the vent line during the test period. Include any breathing losses while the station is closed if such losses occurred during the test period. This value is M_s.

8.2.4.8 Determine hydrocarbon emission rate:

$$(M/L)_s = \frac{\Sigma M_{pot} - \Sigma M_r}{\Sigma V_l} + \frac{M_s}{V_s}$$

8.2.4.9 The physical presence of certain sampling system components in the vapor return line and/or vent pipe may have an adverse effect on the performance of some vapor balance systems. This effect is the re-

sult of a pressure differential created by the dry gas volume meters and the other sampling instrumentation in the line and on the vent outlet. During in-breathing conditions, the meter pressure may be partially offset by negative pressure maintained in the system by the vacuum switches on the exhaust vent. Under conditions of tank equilibrium or tank out-breathing, the effect of the meter and the pressure vacuum switches may be additive. The calculations and procedures presented here do not take into account or provide a correction for any effect caused by the monitoring equipment. It is intended, however, that any effect resulting from the presence of the monitoring equipment be compensated for in determining the hydrocarbon mass emission rate. Therefore, appropriate use of such techniques as zero pressure drop metering mechanisms, or calculated correction factors along with supporting data should be included in the mass emission test and/or calculation procedure.

8.2.4.10 Determine the total number of vehicle fillings during which spitback or spillage was recorded. Report this number on the basis of number of spitback or spillage occurrences per 100 fillings.

8.3 Stage I operations at vacuum assisted systems.

8.3.1 Terminology.

E_{mass} = Mass efficiency.
V_e = Volume of exhaust gas (ft^3).
V_f = Final dry gas meter volume reading (ft^3).
V_i = Initial dry gas meter volume reading (ft^3).
V_{es} = Standard volume of exhaust gases (SCF).
P_a = Ambient pressure (inches Hg).
T_a = Ambient temperature (°F).
P_s = Atmospheric pressure (inches Hg).
C_e = Concentration of exhaust gases (%/100 as propane).
C_v = Concentration of vapors entering control device (%/100 as propane).
V_l = Total transferred gasoline volume (gal).
V_k = Estimated volume of leakages (SCF).

8.3.2 Determine the following for the bulk loading evaluation.

8.3.2.1 Volume of exhausted hydrocarbon vapors from the secondary process equipment.

$$V_e = V_f - V_i$$

8.3.2.2 Standard volume of exhaust gas.

$$V_{es} = \frac{17.71 V_e P_a}{T_a + 460}$$

8.3.2.3 Mass of exhausted hydrocarbons.

$$M_e = 51.7(V_e C_e + V_k C_v)$$

8.3.2.4 Determine the total volume of gasoline delivered during bulk loading. Compare the underground tank readings of volume with the recorded volume. If an inconsistency occurs, determine the correct volume—V_l.

8.3.2.5 Calculate the mass emission rate (optional).

$$(M/L)_e = \frac{M_e}{V_l}$$

8.3.2.6 Calculate mass efficiency.

$$E_{mass} = 100 - 14.14 \frac{M_e}{V_l C_v}$$

8.4 Stage II operation at vacuum assisted systems.

8.4.1 Terminology

V_r = Volume of returned vapors for vehicle refueling (ft^3).
V_{rf} = Initial dry gas meter reading in vapor return line (ft^3).
V_{rf} = Final dry gas meter reading in vapor return line (ft^3).
V_{rs} = Standard returned vapor volume (SCF).
P_a = Ambient pressure (inches Hg).
T_a = Ambient temperature (°F).
M_r = Mass of returned vapors for each vehicle (g).
V_l = Volume of liquid dispensed for each tested automobile (gal).
C_r = Concentration of returned vapors (%/100 as propane).
M/L = Mass of hydrocarbon vapor per volume of liquid (g/gal).
V_p = Volume of vapors flowing to processing equipment (ft^3).
M_p = Mass of hydrocarbon vapor entering control device (g).
R = Explosimeter reading (% LEL).
V_e = Estimated volume of hydrocarbon vapors lost from vehicle fillneck during refueling (gal).
C_p = Concentration of vapors at inlet to processing equipment (%/100 as propane).
L_l = Total volume of liquid dispensed during test period.
V_e = Volume of gas exhausted from control system (ft^3).
C_e = Concentration of gases at exhaust of processing equipment (%/100 as propane).
M_e = Mass of hydrocarbon vapor exhausted from control device (g).
V/L = Volume of vapor per volume of liquid dispensed (ft^3/gal).
V_{ex} = Volume of calculated excess vapors to be processed by the control equipment during the test period (ft^3).
E_p = Efficiency of control equipment (%).

8.4.2 Determine the following variables for vehicle refueling evaluation.

8.4.2.1 Volume of vapors returned for each vehicle used during the test period.

$$V_r = V_{rf} - V_{ri}$$

8.4.2.2 Standard volume of returned gases for each automobile.

$$V_{rs} = \frac{17.71 V_r P_a}{T_a + 460}$$

8.4.2.3 Mass of returned vapor for each automobile.

$$M_r = 51.7 V_{rs} C_r$$

8.4.2.4 For those vehicle fillings that had explosimeter readings of 10 seconds duration or longer in excess of 0.1 LEL, the following table, Table 8-1, is to be used to estimate the leakage volume, V_e for each vehicle.

TABLE 8-1

Maximum explosimeter reading, R	*Leakage volume, V_e (gal)*
R≤0.1 LEL	0.
0.1 LEL<R≤0.5 LEL	0.10 V_l.
0.5 LEL<R≤1.0 LEL	0.35 V_l.
1.0 LEL<R	0.50 V_l.

8.4.2.5 Calculate the estimated hydrocarbon mass leakages for each vehicle.

$$M_r = 6.91 V_{rs} C_r$$

8.4.2.6 Sum the estimated hydrocarbon mass leakages, ΣM_r.

8.4.2.7 Mass per volume of liquid for each automobile.

$$(M/L)_r = \frac{M_r}{V_l}$$

8.4.2.8 Average $(M/L)_r$.

$$(M/L)_r = \frac{\Sigma M_r}{\Sigma V_l}$$

8.4.2.9 Volume of vapors flowing to inlet of control device.

$$V_p = V_{pf} - V_{pi}$$

8.4.2.10 Standard volume of vapors flowing to processing equipment.

$$V_{ps} = \frac{17.71 V_p P_a}{T_a + 460}$$

Note: If the dry gas meter at the inlet to processing equipment is at a substantially different temperature and/or pressure from ambient conditions, substitute the proper values for P_a and T_a.

8.4.2.11 Mass of vapors at inlet of processing equipment.

$$M_p = 51.7 V_{ps} C_p$$

8.4.2.12 Mass per volume of liquid at inlet of processing equipment.

$$(M/L)_p = \frac{M_p}{L_l}$$

8.4.2.13 Volume of exhausted gases from control system.

$$V_e = V_{ef} - V_{ei}$$

8.4.2.14 Standard volume of exhausted gases.

$$V_{es} = \frac{17.71 V_e P_a}{T_a + 460}$$

Note: If temperature and/or pressure of the gas meter at the exhaust of the processing equipment is substantially different from ambient conditions, substitute the proper values for P_a and T_a.

8.4.2.15 Mass of exhausted vapors plus estimated leaked vapors.

$$M_e = 51.7 V_{es} C_e + \Sigma M_r$$

8.4.2.16 Mass per volume of liquid dispensed:

$$(M/L)_e = \frac{M_e}{L_l}$$

8.4.2.17 Volume of vapors returned per volume of liquid dispensed average:

$$\overline{(V/L)}_r = \frac{\Sigma V_r}{\Sigma L_r}$$

8.4.2.18 Total volume of vapors returned from all pumps during test period:

$$V_l = L_l (V/L)_r$$

8.4.2.19 If the vapor recovery system uses the underground tanks as holding tanks for some of the collected vapor, calculate the volume excess to be processed:

$$V_{px} = V_l - 0.1337 L_l$$

If all the vapors collected during refueling operations are processed by the control system—

$$V_{px} = V_l$$

8.4.2.20 Compare V_p and V_{px}.

If $V_{px} > V_p$, substantial leaks may exist in the control system or in the underground piping. If V_{px} exceeds 1.2 V_p, the test results shall be considered invalid.

8.4.2.21 Efficiency of processing equipment (optional).

$$E_p = 100 \frac{(M/L)_e}{(M/L)_r}$$

8.4.2.22 Determine the total number of vehicle fillings during which spitback or spillage was recorded. Report this number on the

basis of number of spitback or spillage occurrences per 100 fillings.

8.4.2.23 Mass emission rate.

$$(M/L)_s = \frac{M_s}{V_s}$$

9. *Calibrations.*

9.1 Flow meters. Standard methods and equipment subject to approval by the Administrator shall be used to calibrate the dry gas meter.

9.2 Temperature recording instruments. Calibrate daily prior to test period and immediately following test period using ice water (32°F) and a known temperature source about 100°F.

9.3 Total hydrocarbon analyzer. Follow the manufacturer's instructions concerning warm-up time and adjustments. On each test day, at least once prior to, and once after each test period, zero the instrument with zero gas (<3 ppm C) and span with a known concentration of propane at about 70% concentration for the displacement systems tests and about 20% concentration for the vacuum assist systems tests. (Note: If butane is substituted for propane as the calibration gas span at about 50% conceneration and make suitable corrections in the calculation.) Prior to and following the testing period, perform a comprehensive calibration in the laboratory. Check the instrument with varying known concentrations of propane and butane to determine linearity.

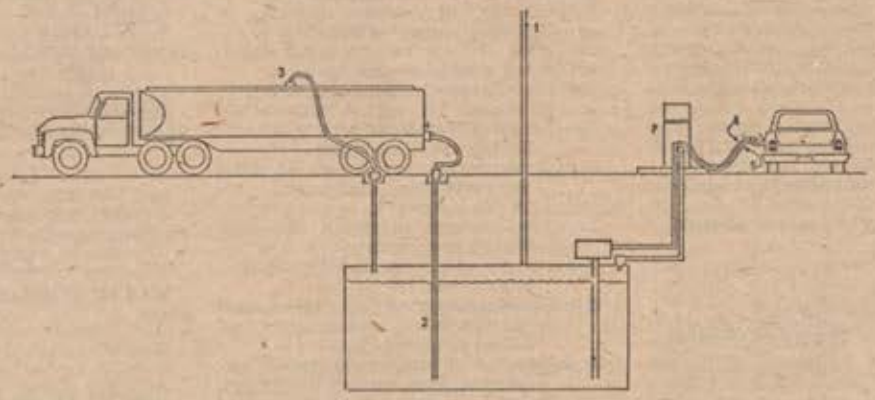


Figure 1. Vapor balance system.

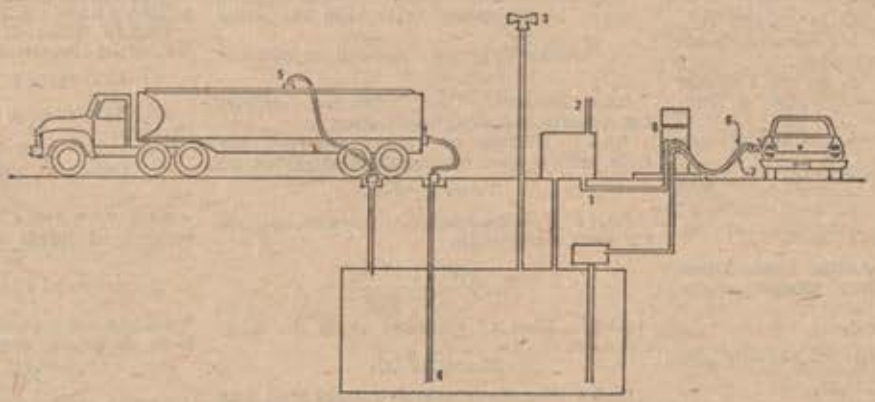


Figure 2. Vacuum assisted secondary system.

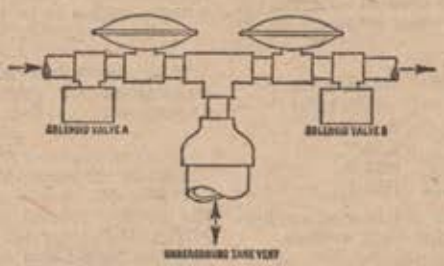


Figure 3. Differential pressure switches (<0.2 in. H2O).

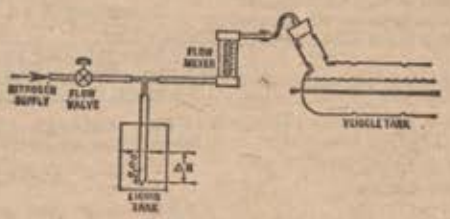


Figure 4. Leak test system.

V. TENTATIVE ALTERNATE FIELD TEST PROCEDURES FOR DETERMINING EMISSIONS AT THE VEHICLE DURING VEHICLE REFUELING WITH VAPOR BALANCE SYSTEMS

INTRODUCTION

This method is set forth in a limited form applicable only to determination of hydrocarbon vapor losses occurring during vehicle refueling operations using vapor balance control equipment. The method, if approved, will replace or may be used as an alternative to the respective paragraphs of the method set forth in Section IV of this appendix.

1. *Principle.*

Pressure in the vehicle fillneck is monitored during refueling and compared with a previously determined relationship between hydrocarbon leak rate and fillneck pressure. Results are expressed as grams of hydrocarbons emitted per gallon of gasoline dispensed.

2. *Applicability.*

This method is applicable to determining emission rates from a vehicle fuel tank at a vapor balance recovery system during vehicle refueling.

3. *Summary of Method.*

3.1 This test method can be performed during normal operation of the service station on customer vehicles or on test tanks. It involves determination of the relationship between leak rate from the vehicle tank and fillneck pressure with the vapor recovery dispensing nozzle latched in place on the tanks before refueling. Hydrocarbon vapors from an underground tank are used to pressurize the vehicle tank. The pressure in the fillneck is monitored while the volume leak rate is measured with a dry gas meter for several different fillneck pressures.

During refueling, hydrocarbon concentration in the vapor return line is monitored. The pressure in the fillneck is recorded throughout the filling operation. The volume of leakage during the refueling is determined from the leak rate versus pressure curve. The mass emission rate can be calculated using the leakage volume and the hydrocarbon concentration.

4. *Basic Measurements and Equipment Required.*

4.1 Basic measurements required for evaluation of the displacement vapor recovery vehicle refueling system are below. Referring to Figure 1, the various sampling points in the system are numbered.

Sample point	*Measurements necessary*
1. (Dispensing nozzle and vehicle fillneck).	Static pressure in fillneck during leak rate measurement. Static pressure in fillneck during vehicle refueling. Hydrocarbon concentration of returned gasoline vapors. Temperature of returned gasoline vapors.
2. (Vapor return hose)	Volume of vapor leaked during leak rate determination.
3. (Gasoline meter and pump)	Volume of gasoline dispensed for each vehicle. Volume of gasoline dispensed during test period.

4.2 The equipment required for the basic measurements are below.

Sample point	*Equipment and specifications*
1*	1 pressure transducer and recorder. 1 modified dispensing nozzle equipped for pressure tap. 1 total hydrocarbon analyzer and recorder equipped to readout 0–100% HC as propane. 1 flexibel thermocouple and recorder (range 0–150°F).
2*	1 by-pass system on vapor return hose (see Figure 2). 1 pump (3 CFM). 1 dry gas volume meter (3 CFM). 2 control valves.

* Equipment indicated is required at each pump being tested.

5. *Test Procedures*

5.1 Determination of leak rate at various fillneck pressures.

5.1.1 Preparation for testing include the following:

5.1.1.1 At a break in the vapor return line place a vapor close-off valve with a restriction no smaller than the vapor hose inside diameter.

5.1.1.2 Attach two taps immediately behind the dispensing nozzle in the vapor return line.

5.1.1.3 Connect one tap to the hydrocarbon analyzer and recorder with a strip chart. The sample pump for the THC analyzer should draw no more than 300 cubic centimeters per minute of sample. Arrangements should be made so that the sample line may be disconnected from the vapor return line when no refueling is in process.

5.1.1.4 Connect to the other tap the flexible thermocouple and recorder.

5.1.1.5 Modify the dispensing nozzle so that the static pressure near the tip of the nozzle in the fillneck may be monitored. This modification should create little or no interference with the flow through the nozzle.

5.1.1.6 Connect to this nozzle pressure tap the pressure transducer and recorder. The range of fillneck pressures is from 0 to 2" H_2O.

5.1.1.7 In a vapor return line that is connected to a different product than the product used for test, connect a pressurizing system as shown in Figure 2. This requires a pump, dry gas meter, and a control valve.

5.1.2 The following steps must be conducted for every automobile used for the test. Prior to refueling determine the leak rate at a minimum of three fillneck pressures (suggested pressures 0.1", 0.3", and 0.5" H_2O).

5.1.2.1 Record for every automobile the license number, State of registration, make, and year. Record also date and time of test.

5.1.2.2 Close the vapor close-off valve in the vapor return line under test so that the vapor return line is closed to gas flow.

5.1.2.3 Attach the dispensing nozzle to the vehicle fillneck so that a hands-off situation exists. Turn on the pressure transducer to monitor the fillneck pressure. Do not begin dispensing gasoline.

5.1.2.4 Turn on the vapor pump in the second vapor return line and adjust the control valve in the line until the pressure in the fillneck is at the desired level and monitor the instant level. Time the metered volume over a convenient volume (suggest a minimum of 0.1 cubic feet or 30 seconds). Record the volume and time with the fillneck pressure. Repeat for other fillneck pressures. Should no leak exist, so note.

5.1.2.5 Record atmospheric conditions including barometric pressure and atmospheric temperature.

5.1.3 The leak measurement during refueling is described in the following steps.

5.1.3.1 Leave dispensing nozzle in place. Connect and turn on the hydrocarbon analyzer with recorder, the temperature sensor and recorder and the pressure recorder. Turn off the vapor pump in the by-pass line and close the control valve.

5.1.3.2 Open the by-pass valve in the vapor return line to full open. Start fuel dispensing without moving the nozzle. Time the duration of flow and mark in the three strip charts the initiation of dispensing along with the license number of the automobile used in the test.

5.1.3.3 When dispensing is complete (do not top off) record the total volume of gasoline dispensed and the time for dispensing.

5.1.3.4 Replace dispensing nozzle in pump and disconnect hydrocarbon sampling line. Turn off recorders and return strip charts from test.

6. *Calculations.*

6.1 Calculations for the displacement vapor recovery system vehicle refueling evaluation are below in summary form. These steps must be completed for each vehicle.

6.1.1 Calculate the leak rates from the volume and time measurements in part 5.1.2.4. Plot these against the corresponding fillneck pressures on log-log paper.

6.1.2 Select a convenient time interval between 10 and 15 seconds for reading the fillneck pressure strip chart obtained during the dispensing period. Record the fillneck pressure at the middle of each time interval.

6.1.3 Convert each pressure value to a leak rate using plot established in step 6.1.1.

6.1.4 Determine the sum of the leak rate values and multiply by the averaging time interval to obtain a total volume leaked during dispensing.

6.1.5 Using the same time interval as for the pressure recording, record the hydrocarbon concentrations from the strip chart. Compensate for the sample lag time in obtaining the proper concentration level.

6.1.6 Convert each hydrocarbon concentration reading to concentration in grams per standard cubic foot with the calibration data for the instrument. Correct to standard temperature and pressure.

6.1.7 Calculate the grams of hydrocarbon lost during each interval: (time interval) (leak rate) (concentration)=grams

6.1.8 Calculate the mass loss rate.

$$\left(\frac{\text{total grams}}{\text{gallons dispensed}}\right)=\text{grams/gallon}$$

FIGURE 1
DISPLACEMINT SYSTEM

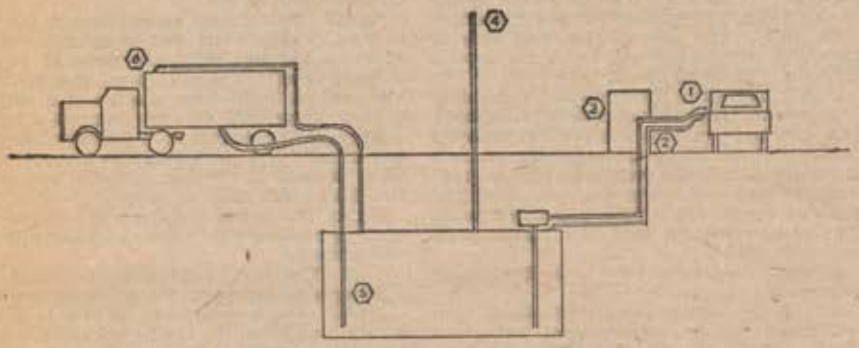
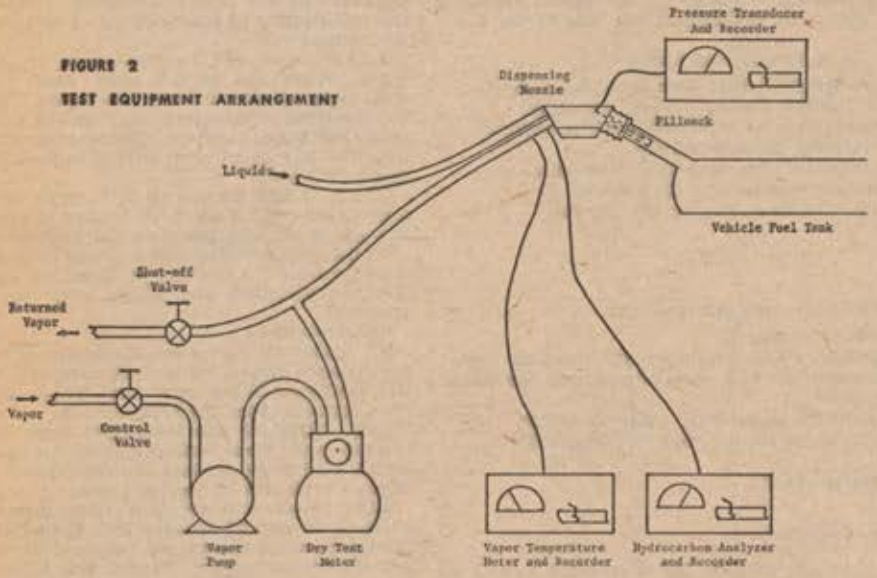


FIGURE 2
TEST EQUIPMENT ARRANGEMENT



VI. Tentative Alternative for Measuring Volume of Hydrocarbon Vapors During Vehicle Refueling Operations With Vapor Balance Control Systems

Introduction

This device is described in limited form applicable only to determination of returned vapor volume during vehicle refueling operations at vapor balance control systems. The volume measuring technique, if approved, would replace or be used as an alternative to the respective paragraphs of the method set forth in Section IV of this appendix.

1. *Principle.*

Hydrocarbon vapors displaced from the vehicle tank during refueling are routed to a flexible, inert or properly conditioned plastic bag where they are stored until the refueling operation is complete. A pump then evacuates the bag and the volume is measured with a dry gas meter. The vapors are pumped to the underground tank.

2. *Applicability.*

This volume measuring device is applicable to determining the volume of hydrocarbon vapors returning to the underground storage tank via the vapor return hose during the vehicle refueling operation at vapor balance recovery systems.

3. *Summary of Method.*

The volume measuring system is shown in Figure 1. Vapor returning via the vapor return line passes into a collapsed plastic bag that inflates inside a protective sealed drum. The volume displaced from the drum goes to the underground storage tank. At the conclusion of the refueling operation, appropriate valves are closed. Then the vapor in the bag is drawn through a dry gas meter until the bag is collapsed. This vapor is returned to the drum and remains there until displaced during the next refueling. The volume measurement is used to calculate mass of hydrocarbon vapors returned with other data gathered in Section IV of this appendix.

4. *Operating Procedure.*

4.1 The following steps describe the steps taken for each refueling operation. Refer to Figure 1 for valve numbers and other equipment described.

4.1.1 At the point where the vapor return line from the dispensing nozzle, connect the vapor return hose to valve 1. This valve and others in the sampling line should present no greater restriction to flow than the return hose.

4.1.2 Connect a 1½ inch diameter hose from valve 4 to the underground vapor return line connection.

4.1.3 Close tightly valves 1 and 4 and open valves 2 and 3. Evacuate the plastic bag with the vacuum pump. Record the dry gas meter reading when the bag is collapsed.

4.1.4 Close valves 2 and 3, open valves 1 and 4 and begin the refueling operation.

4.1.5 After shut-off of the dispensing pump, close valves 1 and 4, open valves 2 and 3, and evacuate the bag to collapse. During evacuation record volume meter temperature and pressure. Record the final volume meter reading when the evacuation is complete.

4.1.6 Repeat steps 4.1.4 and 4.1.5 for each vehicle refueling operation.

5. *Calculations.*

5.1 Nomenclature.

V_i = Initial dry gas meter reading (ft^3).
V_f = Final dry gas meter reading (ft^3).
T_m = Meter temperature during evacuation (°F).
P_a = Atmospheric pressure (in. Hg).

5.2 Calculate the standard volume of returned vapor (@ 70° F and 29.92 in. Hg).

$$V_s = 17.71(V_f - V_i)\left(\frac{P_a}{T_m + 460}\right)$$

Note: If the meter pressure during evacuation of the bag is substantially different from atmospheric pressure, P_a, substitute the proper valve.

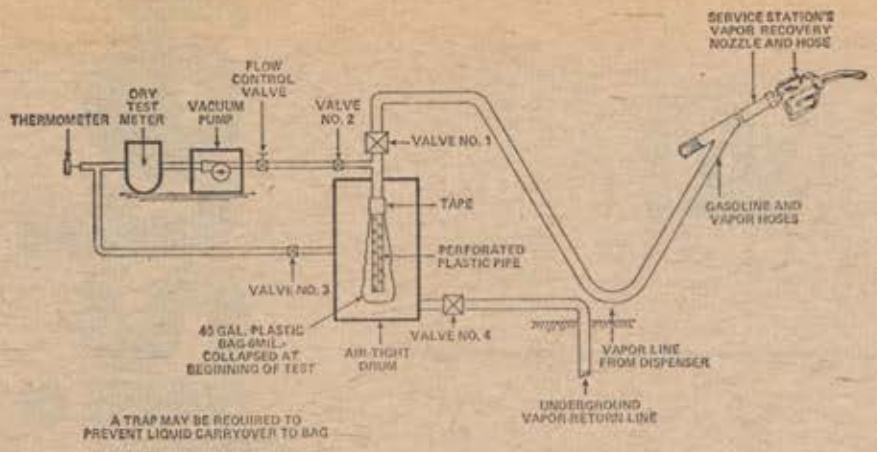


FIGURE 1. EQUIPMENT FOR MEASURING VOLUME.

[FR Doc.75-26749 Filed 10-8-75;8:45 am]

federal register

THURSDAY, OCTOBER 9, 1975

PART IV:

FEDERAL ELECTION COMMISSION

■

SUBPENA REGULATIONS; PRESIDENTIAL PRIMARY MATCHING FUNDS; ADVISORY OPINIONS

FEDERAL ELECTION COMMISSION

[11 CFR Part 116]

[Notice 1975-59]

SUBPENA REGULATIONS

Notice of Proposed Rulemaking

The Federal Election Commission today publishes a proposed regulation covering its subpena power in Title 2, U.S.C. This regulation is intended to be comprehensive in this area.

Comment period. Interested persons are invited to submit written comments on these proposed regulations to the Rulemaking Section, Office of General Counsel, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463. Comments should be received on or before November 10, 1975. The Commission emphasizes that comments from all affected parties are strongly desired.

Effective date. This regulation shall become effective on a date specified in a future notice published in the FEDERAL REGISTER, which effective date shall not be less than 30 calendar days after the date of this notice of proposed rulemaking, nor before approval by the United States Congress.

AUTHORITY: This regulation is proposed under authority of 2 U.S.C. 438.

Dated: October 2, 1975.

THOMAS B. CURTIS,
Chairman for the
Federal Election Commission.

Accordingly, it is proposed to amend Title II, Code of Federal Regulations, by adding Part 116 which would read as follows:

PART 116—SUBPENAS

Sec.
116.1 Issuance of subpenas and subpenas duces tecum.
116.2 Service of subpenas.
116.3 Motions to quash.
116.4 Witness fees and mileage.

AUTHORITY: 2 U.S.C. 438.

§ 116.1 Issuance of subpenas and subpenas duces tecum.

(a) The Commission, by majority vote, shall issue subpenas signed by the Chairman or the Vice Chairman requiring the attendance and testimony of witnesses and subpenas requiring the production of documentary or other tangible evidence upon request therefor by the General Counsel.

(b) All requests by the General Counsel for subpenas, whether written or oral, shall contain a statement or showing of general relevance and reasonable scope of the evidence sought, and shall be accompanied by a copy of a draft of the subpena sought which shall describe the documentary or tangible evidence to be subpenaed with as much particularity as is feasible, and state the time at which such evidence must be produced.

(c) The Commission shall issue subpenas only upon such conditions as fairness requires.

§ 116.2 Service of subpenas.

(a) Service of a subpena upon a person named therein shall be made by delivering a copy of the subpena to such person and by tendering the fees for one day's attendance and the mileage as specified by § 116.3. Fees and mileage need not be tendered at the time of service.

(b) Whenever service is to be made upon a person who is represented in the pending proceeding by an attorney, the service may be made upon the attorney.

(c) Delivery of a copy of a subpena and tender of the fees to a natural person may be made by handing them to the person; or leaving them at his office with the person in charge thereof; or leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein; or mailing them by registered or certified mail to him at his last known address; or by any method whereby actual notice is given to him and the fees are made available prior to the return date.

(d) When the person to be served is not a natural person, delivery of a copy of the subpena and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at his last known address; or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date.

§ 116.3 Motions to quash.

Any person to whom a subpena is directed may, prior to the time specified therein for compliance, but in no event more than 2 days after the date of service of such subpena, apply to the Commission, to quash or modify such subpena, accompanying such application with a brief statement of the reasons therefor. The Commission may deny the application, or upon notice to the person upon whose request the subpena was issued, and opportunity for reply, may:

(a) Deny the application,
(b) Quash or
(c) Modify the subpena.

§ 116.4 Witness fees and mileage.

(a) Witnesses summoned before the Commission shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(b) Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

[FR Doc.75-26942 Filed 10-8-75;8:45 am]

[11 CFR Parts 130, 131, 132, 133]

[Notice 1975-57]

FEDERAL CAMPAIGN FUNDS

Presidential Primary Election Matching Fund Regulation

The Federal Election Commission today publishes proposed regulations covering Presidential Primary Election Matching Funds, generally 26 U.S.C. 9031-9038.

Comment period. Interested parties are invited to submit written comments on these proposed regulations to the Rulemaking Section, Office of the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. Comments should be received on or before November 10, 1975.

In particular, the Commission requests comments on the following key points:

(1) The definition of "matchable campaign contribution" in § 130.7, on which the Commission had a split vote, and for which it has included two alternative formulations which it considered, but rejected;

(2) The provision in § 131.2(c), which requires candidates to provide photocopies of written instruments, attached to deposit slips and bank statements and segregated by state;

(3) The absence of a provision in part 132 to permit candidates to question the Commission's refusal to certify a contribution as matchable; and

(4) An equitable method of informing the candidate of possible repayments under § 133.2.

Hearings. The schedule for public hearings on the proposed regulation will be published in the near future.

Effective date. These regulations shall become effective on a date specified in a future notice published in the FEDERAL REGISTER, which effective date shall not be less than 30 calendar days after the date of this notice of proposed rulemaking, nor before approval by the United States Congress.

PART 130—DEFINITIONS

Sec.
130.1 Authorized committee.
130.2 Candidate.
130.3 Commission.
130.4 Matching payment account.
130.5 Matching payment period.
130.6 Primary election.
130.7 Matchable campaign contribution.
130.8 Qualified campaign expense.

AUTHORITY: 26 U.S.C. 9031-9038.

§ 130.1 Authorized committee.

"Authorized committee" means a political committee which is actually or constructively authorized by a candidate to solicit or receive contributions or to make expenditures on behalf of the candidate.

§ 130.2 Candidate.

For purpose of this section, "candidate" means an individual who seeks the nomination for election to be President of the United States. An individual is deemed to seek the nomination for election if he or she—

(a) Takes the action necessary under the law of a state to qualify for nomination for election; or

(b) Receives contributions or incurs qualified campaign expenses; or

(c) Gives consent for any other person to receive contributions or to incur qualified campaign expenses on his or her behalf.

§ 130.3 Commission.

"Commission" means the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463, telephone (202) 382-5162.

§ 130.4 Matching payment account.

"Matching payment account" means the Presidential Primary Matching Account established under 26 U.S.C. 9037 (a) and part 133.

§ 130.5 Matching payment period.

"Matching payment period" means the period beginning January 1 of the year in which a general election for the office of President of the United States is held and ending on the date on which the national convention of the party, whose nomination a candidate seeks, nominates its candidate for the office of President of the United States, or, in the case of a party which does not make such nomination by national convention, the last day for the matching period shall be the earlier of (a) the date such party nominates its candidate for the office of President of the United States; or (b) the last day of the last national convention held by a major party.

§ 130.6 Primary election.

"Primary election" means an election under § 100.6 for the selection of delegates to a national nominating convention of a political party, or for the expression of a preference for the nomination of candidates for election to the office of President of the United States.

§ 130.7 Matchable campaign contribution.

(a) "Matchable campaign contribution" means a gift of money other than a loan, advance, subscription, deposit or anything of value (see § 100.4(a)(1)), made by a written instrument identifying the individual making the contribution by full name, and mailing address.

(1) Gifts of money will be considered matchable campaign contributions only to the extent of the first $250 contributed by an individual.

(2) Such amount must be actually received by the candidate or his or her committee and deposited in a designated campaign depository, and

(3) Such amount must be received by the candidate on or after the first day of the calendar year immediately preceding the calendar year of the presidential election.

(b) For the purpose of this definition the term "money" means currency of the United States and foreign currency, checks, money orders or any other negotiable instrument paayble on demand.

(c) For purposes of the foregoing and subject to paragraph (d) of this section, "written instrument" means a check, mnoye order, or any other negotiable instrument payable on demand, which contains the name of the contributor, and the amount and date of the contribution, and which contains the address of the contributor on the written instrument or on an attached record. Such written instrument may include a written receipt for a cash gift (not exceeding $100 and not made in violation of 18 U.S.C. 615) issued by or on behalf of the contributee candidate; countersigned in ink by the contributor; and including the contributor's full name, residential address, and the amount and date of the gift.

(d) For the purposes of Parts 130-39, contributions eligible for matching are determined without regard to costs incurred by a candidate in raising the contribution, except that a contribution in the form of the purchase price paid for an item with significant intrinsic and enduring value is not a matchable campaign contribution.

TWO ALTERNATIVES CONSIDERED

I. (d) For purposes of parts 130-39, contributions eligible for matching are determined without regard to costs incurred by a candidate in raising the contribution, except that (1) gifts of money received due to an event, sale or other occurrence which confers a private benefit upon the contributor are contributions only to the extent that the amount received exceeds the cost or, in appropriate cases to be determined by the Commission, the fair market value of such private benefit. The candidate or committee shall maintain records to establish the cost or fair market value; and (2) a contribution in the form of the purchase price paid for an item with signincant intrinsic and enduring value is not a matchable campaign contribution.

II. (d) For the purposes of Parts 130-39, contributions eligible for matching are determined without regard to the costs incurred by a candidate in raising the contribution, except that—

(1) A contribution in the form of the purchase price paid for an item with significant intrinsic and enduring value is not a matchable campaign contribution; and

(2) A contribution in the form of the payment for a ticket purchased for a concert shall be matchable only to the extent that the contribution exceeds the per capita cost or in appropriate cases, fair market value, of holding the concert. The candidate or committee shall maintain records to establish the cost or fair market value.

§ 130.8 Qualified campaign expense.

"Qualified campaign expense" means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value—

(a) Incurred by a candidate or by his or her authorized committee, or by a person authorized in writing by such candidate or committee, in connection with his or her campaign for nomination for election; and

(b) Neither the incurrence, nor payment of which, constitutes a violation of any law of the United States or of any State in which the transaction occurred.

PART 131—ELIGIBILITY FOR PAYMENTS

Sec.

131.1 Candidate agreements.
131.2 Candidate certifications, threshold amount.
131.3 Candidate entitlement.

AUTHORITY: 26 U.S.C. 9031-9038.

§ 131.1 Candidate agreements.

To be eligible to receive Presidential primary matching fund payments, a candidate shall agree in a letter to the Commission, signed by the candidate, that the candidate will—

(a) Obtain and furnish to the Commission, upon reasonable written or oral request, any evidence it may request regarding qualified campaign expenses.

(b) Keep, and furnish to the Commission upon reasonable written or oral request, any books, records or other information it may request; and

(c) Permit an audit and examination by the Commission, pursuant to part 133, and to pay any amounts required to be paid under such part.

§ 131.2 Candidate certifications, threshold amount.

To be eligible to receive Presidential primary matching fund payments, a candidate shall certify to the Commission, in a written statement signed by the candidate under penalty of perjury, that—

(a) He or she is seeking nomination by a political party to the office of President of the United States;

(b) The candidate and his authorized committee(s) will not incur qualified campaign expenses in excess of ten million dollars, except that the aggregate of expenditures in any one state shall not exceed twice the expenditure limitation applicable in such state to a candidate for nomination for election to Senator, Delegate or Resident Commissioner as the case may be;

(c) The candidate and his authorized committees have received matchable campaign contributions which, in the aggregate, exceed $5,000 in contributions from individuals who are residents of at least 20 states, and which in respect to any individual do not exceed $250. The submission to the Commission for certification as to eligibility for matching funds shall be made in the following way:

(1) For each state in which the candidate certifies he or she has met the requirement of paragraph (c) of this section, the candidate shall submit an alphabetical list of each contributor, showing his or her full name, residential address, date of contribution, dollar amount of total contributions, and dollar amount submitted for matching purposes;

(2) The candidate shall submit a photocopy of each check or other written instrument for each contribution which the candidate submits to receive matching funds. Such photocopies shall be segregated by state, and shall be accompanied by copies of the relevant deposit slip and the relevant bank statement.

(i) Those candidates who cannot provide photocopies of checks or other written instruments for contributions received prior to August 11, 1975 (see Federal Election Commission Interim Guideline [Notice 1975-22], 40 FR 33817, August 11, 1975) shall submit a written statement to the Commission stating that the candidate is unable to provide photocopies, and the reason(s) therefor;

(ii) Upon receipt of the foregoing statement, the Commission shall review the amounts and records of contributions, and such other information as the Commission deems necessary, to deter-

mine if such amounts, records and other information justify certification for matching funds.

§ 131.3 Candidate Entitlements.

Every candidate who is certified by the Commission under § 131.2 as eligible to receive payments is then entitled to payments—

(a) In an amount equal to the amount of each matchable campaign contribution, as defined in § 130.7,

(b) But not in excess of $5 million, see 26 U.S.C. 9034(b).

PART 132—CERTIFICATION AND DISBURSEMENT

Sec.
132.1 Initial certification.
132.2 Additional certifications.
132.3 Presidential Primary Matching Payments.

AUTHORITY: 26 U.S.C. 9031—9038.

§ 132.1 Initial certification.

(a) Within 10 calendar days after a candidate is certified by the Commission as eligible under part 131 to receive payments, the Commission shall certify to the Secretary of the Treasury for payment of the amount to which such candidate is entitled.

(b) To receive the initial payment, the candidate shall submit to the Commission, in addition to the information required under part 131,

(1) The name and mailing address of the person to whom the payment should be sent;

(2) The name and address of the national or state bank to be used as the candidate's designated campaign depository, see Part 4.

§ 132.2 Additional certifications.

(a) For certification after a candidate has received his or her initial certification and payment, a candidate shall file all information required for the initial eligibility under part 131,

(1) Except that the alphabetical listing of contributors need not be submitted under separate State headings, and

(2) The candidate need not resubmit the agreements under § 131.1 and the certifications under § 131.2.

(b) Within 15 calendar days of receipt of the information required by paragraph (a) of this section, the Commission shall certify to the Secretary of the Treasury of the amount to which a candidate is eligible.

§ 132.3 Presidential primary matching payments.

(a) Upon receipt of a written certification from the Commission but not before the beginning of the matching payment period, the Secretary of the Treasury or his or her delegate shall promptly transfer the amount certified from the matching payment account to the candidate.

(b) Such payments shall be the full amount to which the candidate is entitled unless, in the Secretary's judgment, the Presidential Primary Matching Payment Account lacks sufficient funds to meet current demands, in which case the Secretary shall seek to achieve an equitable distribution of available funds among candidates of the same political party, taking into account the sequence in which the certifications are received.

PART 133—EXAMINATIONS AND AUDITS; REPAYMENTS

Sec.
133.1 Audit.
133.2 Repayments.
133.3 Liquidation of obligations; repayment.

AUTHORITY: 26 U.S.C. 9031-9038.

§ 133.1 Audit.

Within 90 days of the close of a Matching Payment Period, the Commission shall conduct an audit of the qualified campaign expenses of every candidate and his or her authorized committees who received presidential primary matching funds.

§ 133.2 Repayments.

If the Commission determines that:

(a) Any portion of the payments made to a candidate from the matching payment account was in excess of the aggregate amount to which such candidate was entitled, or

(b) Any amount of any payment made to a candidate from the matching payment account was used for any purpose other than to defray qualified campaign expenses, including the repayment of loans, then the Commission shall so inform the candidate no later than 3 years after the end of such matching payment period, and the candidate shall repay to the Secretary of the Treasury, within 90 days of such notice, an amount equal to the excess payments, or an amount equal to the amount of non-qualified campaign expenditures. Upon application submitted by the candidate, the Commission may grant a 90 day extension of the repayment period.

§ 133.3 Liquidation of obligations; repayment.

(a) Obligations incurred with respect to primary elections may be liquidated through use of matching payment funds during a period up to 6 months after the end of the Matching Payment period.

(b) After all obligations have been liquidated, the candidate shall so inform the Commission in writing.

(c)(1) Within 30 days of such notification, and

(2) If any unexpended balance remains in any campaign depository of the candidate or any of his authorized committees into which matching payments were deposited,

then the candidate shall repay to the Secretary of the Treasury an amount equal to that portion of the unexpended balance remaining in the candidate's depositories which bears the same ratio to the total unexpended or unencumbered balance as the total amount received from the matching payment account bears to the total of all deposits made into all of the candidate's depositories.

(d) All payments received by the Secretary under § 133.3 or 4 shall be deposited in the Matching Payment Account.

Dated: October 1, 1975.

THOMAS B. CURTIS,
Chairman for the
Federal Election Commission.

[FR Doc.75-26860 Filed 10-8-75;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1975–58]

PRESIDENTIAL PRIMARY MATCHING FUNDS

Interim Guideline

The Federal Election Commission today publishes an Interim Guideline on Presidential Primary Matching Funds. This Guideline supersedes previous Guidelines on this subject, published on August 11, 1975 (40 FR 33817) and September 9, 1975 (40 FR 41933). The Guideline comprehensively treats the subject, and is identical to the proposed regulation on this subject adopted for publication by the Commission (FEC Notice 1975–57). The Guideline will be in effect until the regulations governing this subject matter are finally approved.

Dated: October 1, 1975.

THOMAS B. CURTIS,
Chairman for the
Federal Election Commission.

EDITORIAL NOTE.—The text of the interim guideline corresponds exactly to the text of the proposed regulations proposed by the Federal Election Commission and published in Part IV of this issue. For the text see FR Doc. 75–26860 appearing elsewhere in this Part IV.

[FR Doc.75–26859 Filed 10–8–75;8:45 am]

[Notice 1975–60]

REPORTING REQUIREMENTS FOR INTER-POLITICAL COMMITTEE CONTRIBUTIONS AND INVESTMENT OR SAVINGS DEPOSITS OF CONTRIBUTIONS OR OTHER RECEIPTS

Advisory Opinions

The Federal Election Commission announces the publication today of Advisory Opinions 1975–40 and 1975–41. The Commission's opinions are in response to questions raised by individuals holding Federal office, candidates for Federal office and political committees, with respect to whether any specific transaction or activity by such individual, candidate, or political committee would constitute a violation of the Federal Election Campaign Act of 1971, as amended, of Chapter 95 or Chapter 96 of Title 26 United States Code, or of Sections 608, 610, 611, 613, 614, 615, 616, or 617 of Title 18 United States Code.

The Commission points out that these advisory opinions should be regarded as interim rulings which are subject to modification by future Commission regulations of general applicability. In the event that a holding in either opinion is altered by the Commission's regulations, the persons to whom the opinions were issued will be notified.

[Advisory Opinion 1975–40]

REPORTING REQUIREMENTS FOR INTER-POLITICAL COMMITTEE CONTRIBUTIONS

This advisory opinion is rendered under 2 U.S.C. 437f in response to a request, published on September 3, 1975, at 40 FR 40676 (1975), which concerns the reporting requirements of a political committee which receives contributions from another committee. The question specifically raised is whether the reporting exemption under 2 U.S.C. 434(b)(2) for contributions to a political committee of $100 or less, including contributions for the purchase of tickets for dinners, luncheons, etc., also applies to the situation where such contribution to a political committee is made by another political committee.

Each treasurer of a political committee supporting a candidate or candidates for election to Federal office is required to file reports of receipts and expenditures. 2 U.S.C. 434(a)(1). The report must contain the full name and address of each person who has made one or more contributions to or for such committee (including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fund raising events) within the calendar year in an aggregate amount or value in excess of $100, together with the amount and date of such contributions. 2 U.S.C. 434(b)(2). It would initially appear that since the word "person" referred to in 2 U.S.C. 434(b)(2) is broadly defined in 2 U.S.C. 431(h) to include "any * * * committee", then any contribution or transfer of funds from one committee to another which aggregates $100 or less need not be reported under 2 U.S.C. 434(b)(2). However, 2 U.S.C. 434(b)(4), further requires the report to contain "the name and address of each political committee * * * from which the reporting committee * * * received, or to which that committee * * * made, *any* transfer of funds, together with the amounts and dates of all transfers" (Emphasis added)

Thus, if a political committee purchases reception tickets or anything else from another political committee or the candidate's principal campaign committee, such purchase, regardless of the amount, constitutes a transfer of funds under 2 U.S.C. 434(b)(4) and is, accordingly, reportable. Both the recipient/transferee committee and the donor/transferor committee must report the name and address of each other together with the amounts and dates of all transfers.

This advisory opinion is issued on an interim basis only pending the promulgation by the Commission of rules and regulations of general applicability.

[Advisory Opinion 1975–41]

INVESTMENT OR SAVINGS DEPOSITS OF CONTRIBUTIONS OR OTHER RECEIPTS

The Federal Election Commission renders this advisory opinion under 2 U.S.C. § 437f in response to a request submitted by the Shuster for Congress Committee. The request was published in the Federal Register on September 3, 1975 (40 FR 40676). Interested parties were given an opportunity to submit comments relating to the request.

The requesting party seeks an advisory opinion as to whether a political committee may deposit contributions, sales, collections, loans, and/or transfers in an interest-bearing savings account in a State and/or national bank or may invest such funds in Government treasury notes.

The Commission concludes that a political committee may invest its funds in interest-bearing accounts in State or national banks or in Government treasury notes. However, certain procedures must be followed by political committees in order to insure proper disclosure of such transactions. All contributions to or receipts of a political committee must first be deposited in a checking account of an appropriate campaign depository. 2 U.S.C. § 437b(a). An amount transferred from the checking account of a political committee's campaign depository to an income source must be returned, interest included, to the same campaign depository. No expenditure may be made from funds which are in an interest-bearing account or which are invested in treasury notes. If funds are transferred to a savings account in a bank other than those listed by the committee in its statement of organization pursuant to 2 U.S.C. 433(b)(9), the committee must submit an amended statement listing the bank so used within 10 days following the transfer. 2 U.S.C. 433(c).

It is the Commission's view that the transfer of funds received by a political committee from the checking account of its campaign depository(ies) to an income source does not constitute an expenditure which must be reported by such committee under 2 U.S.C. 434(b) (9), (11). Rather, such a transfer represents merely a conversion of one form of "cash on hand" to another. Only the initial contributions to or receipts of a political committee and the subsequent receipt of income earned upon invested funds must be reported by the political committee. 2 U.S.C. 434(b) (2), (7), (8). For Commission auditing purposes, the campaign depository checking account statement retained by the committee will provide an adequate record of transfers of an amount to an income source and return of such amount.

The Commission notes that the foregoing opinion modifies the holding in Advisory Opinion 1975–10, decided August 21, 1975, and published at 40 FR 40674. The Commission now concludes that internal transfers of funds from a campaign checking account to interest bearing savings accounts or Government treasury notes need not be disclosed on the report of receipts and expenditures.

This advisory opinion is issued on an interim basis only pending the promulgation by the Commission of rules and regulations of general applicability.

Dated: October 2, 1975.

THOMAS B. CURTIS,
Chairman,
Federal Election Commission.

[FR Doc.75–26941 Filed 10–8–75;8:45 am]

federal register

THURSDAY, OCTOBER 9, 1975

PART V:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

■

EMERGENCY HOME-OWNERS' RELIEF

Standby Authority to Insure or Make Loans to Homeowners

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Parts 2700, 2705, 2710, 2715, 2720, 2725]

[Docket No. R-75-355]

EMERGENCY HOMEOWNERS' RELIEF

Notice of Proposed Rulemaking

On July 2, 1975, the President signed the Emergency Housing Act of 1975, 12 U.S.C. 2701, Title I of which is the Emergency Homeowners' Relief Act (Act). The Act conferred upon the Secretary of Housing and Urban Development (Secretary) standby authority to insure or make loans to homeowners to defray mortgage expenses so as to prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income.

Notice is hereby given that the Secretary proposes to add a new chapter to Title 24 of the Code of Federal Regulations describing the requirements of the emergency homeowners' relief program in case it should be determined that economic conditions dictate the implementation of the standby authority.

A complete explanation of the composite delinquency index used to determine when the standby authority should be implemented is contained in a separate notice being published concurrently with this proposed rule.

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views and arguments with respect to this proposal. Communications should be identified by the above docket number and title and should be filed with the Rules Docket Clerk, Office of General Counsel, Room 10245, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. All relevant material received on or before November 12, 1975 will be considered before adoption of the final rule. Copies of comments submitted will be available for public inspection during normal business hours at the above address.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The Finding of Inapplicability, in accordance with HUD's environmental procedures handbook (HUD Handbook 1390.1), is available for inspection at the office of the Rules Docket Clerk.

The proposed chapter reads as follows:

CHAPTER XV—EMERGENCY HOMEOWNERS' RELIEF PROGRAM

Part	
2700	General
2701–2704	[Reserved]
2705	Eligibility
2706–2709	[Reserved]
2710	Terms of Emergency Loans
2711–2714	[Reserved]
2715	Coinsurance
2716–2719	[Reserved]
2720	Direct Loans
2721–2724	[Reserved]
2725	Appendices
2726–2799	[Reserved]

PART 2700—GENERAL

Sec.
2700.1 Purpose.
2700.5 Definitions.
2700.10 Determination of emergency.

AUTHORITY: Sec. 108(a), 12 U.S.C. 2707, 89 Stat. 256, Pub. L. 94-50.

§ 2700.1 Purpose.

The purpose of this chapter is to describe and establish a standby program, authorized by the Emergency Homeowners' Relief Act, to prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income. If it becomes necessary to implement the program, HUD would provide emergency relief under the standby program by coinsuring loans made by private lenders or by making direct loans to homeowners to assist them in making their mortgage payments. In the event that this emergency program is needed, coinsurance under Part 2715 is intended to be the primary method of assistance.

§ 2700.5 Definitions.

For purposes of this chapter:

(a) "Act" means the Emergency Homeowners' Relief Act.

(b) "Collection agent" means a lending institution which services an emergency loan made by the Secretary pursuant to Part 2720.

(c) "Delinquent mortgage" means the mortgage which is at least 3 months delinquent at the time of the application for assistance under this chapter and with respect to which such assistance is to be used or has been used to make payments.

(d) "Department" and "HUD" mean the Department of Housing and Urban Development.

(e) "Direct loan" means an emergency loan made pursuant to Part 2720 with funds of the United States of America, evidenced by a note payable to the United States of America.

(f) "Emergency loan" means an emergency mortgage relief loan made pursuant to this chapter.

(g) "Family" means one or more persons related by blood, marriage, or operation of law, who occupy the same dwelling unit.

(h) "Finance charge" means the cost of credit as determined in 12 CFR 226.4, a section in "Regulation Z" of the Federal Reserve System's regulations on Truth in Lending.

(i) "Financially unable to make full mortgage payments" means that a homeowner is unable to make his monthly mortgage payment with 35 percent of his gross monthly income and that his assets (excluding the equity in his principal residence, household furniture, equipment used in his trade, clothing, and automobiles) have a current value not in excess of $5,000.

(j) "Gross monthly income" means the total monthly income, before taxes and other deductions, received by all members of the homeowner's family. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, food stamp benefits, and interest and dividend payments.

(k) "Homeowner" means a mortgagor or mortgagors who want to receive or have received mortgage assistance pursuant to this chapter in connection with a mortgaged property which is the principal residence of the mortgagor or mortgagors.

(l) "Investor" means a lending institution which holds a delinquent mortgage. The investor may also be the lender or collection agent.

(m) "Involuntary unemployment or underemployment" means the status of a homeowner who is without a job and who wants, is seeking, and is available to work or who is working part-time but seeking full-time work, or who is working full-time but has suffered a substantial reduction in income.

(n) "Lender" means a lending institution which makes an emergency loan pursuant to Part 2715, or its assignee or successor in interest.

(o) "Mortgage" means any mortgage, deed or trust or other form of security and the obligation secured thereby on a one- to four-family dwelling which is either real estate or a mobile home. It includes a mortgage on a condominium unit and security on stock in a housing cooperative.

(p) "Monthly mortgage payment" means the monthly amount of principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums due to be paid to the mortgagee(s) under a homeowner's mortgage(s).

(q) "Secretary" means the Secretary of Housing and Urban Development.

(r) "Servicer" means the lending institution that services the delinquent mortgage. The servicer may also be the lender or collection agent.

(s) "Substantial reduction in income" means that the homeowner's average gross monthly income during the period the homeowner is in arrears on the delinquent mortgage is less than 75 percent of his average gross monthly income during the 24 month period preceding the beginning of his involuntary unemployment or underemployment.

§ 2700.10 Determination of emergency.

(a) The Department has constructed a nationwide composite index of delinquencies of 60 days or more (including loans in the process of foreclosure) for mortgage loans on one- to four-family dwellings. It is a quarterly index which is based on a weighted average of delinquency rates published by: the Veterans Administration, the Mortgage Bankers Association of America, the American Life Insurance Association, the National Association of Mutual Savings Banks, and the U.S. League of Savings Associations. The rates are weighted according to the percentage of the long-term mort-

gage loans held by the respective lender groups represented by the data in each individual series at the end of each quarter.

(b) If the composite rate of delinquencies should reach 1.20 percent the Secretary will, after consultation with the Federal agencies that regulate institutions which make home mortgage loans, make a finding and determination as to whether the Act should be implemented. If the determination of the Secretary is not to implement the Act, and if the composite rate of delinquencies should continue at a level of 1.20 percent or above, the Secretary shall continue to consult with such agencies and shall issue such a finding and determination at the end of each 30 day period during which the rate is at or above the 1.20 percent level.

(c) If the Emergency Homeowners' Relief Program is activated pursuant to subsection (b), the Secretary shall publish a notice thereof in the Federal Register, inviting lending institutions qualified under § 2705.5 that are interested in participating in the program to submit a request for insurance authority allocation or lending authority allocation in the form specified in Appendix 1. Such request shall also serve as an application for a contract of insurance pursuant to Part 2715 or for a contract to act as the Secretary's collection agent pursuant to Part 2720, depending upon the type of authority requested. Such an institution shall not request an allocation in excess of the estimated amount which its delinquent homeowners would qualify for under Part 2705 at the time the request is filed. The insurance and lending authority shall be allocated on the basis of the criteria that the Secretary articulates at the time of publication, taking into account any special circumstances at that time. An allocation of insurance authority shall constitute acceptance by the Secretary of the lending institution's application for a contract of insurance, the terms of which are embodied in this chapter. Similarly, an allocation for direct loan authority shall constitute acceptance by the Secretary of the institution's application for a contract to act as the Secretary's collection agent, the terms of which are embodied in this chapter.

(d) If, after the program is activated, the Secretary determines that the emergency conditions which led to the activation of the program have abated, no new emergency loans may be made. Moreover, no emergency loans may be made after June 30, 1976.

PARTS 2701—2704 [RESERVED]

PART 2705—ELIGIBILITY

Sec.
2705.1 Eligible properties.
2705.5 Eligible lending institutions.
2705.10 Eligible homeowners.

AUTHORITY: Sec. 108(a) (12 U.S.C. 2707) 89 Stat. 256, Pub. L. 94-50.

§ 2705.1 Eligible properties.

In order to qualify for an emergency loan under Part 2715 or Part 2720 of this chapter, the mortgaged property must be the principal residence of the homeowner, and be subject to a delinquent mortgage as defined in § 2700.5, but not subject to liens having a total outstanding principal balance at the beginning of the delinquency of the delinquent mortgage in excess of $55,000.

§ 2705.5 Eligible lending institution.

(a) In order to participate in the Emergency Homeowners' Relief Program as a lender or collection agent, a lending institution must be approved as a mortgagee pursuant to §§ 203.1 through 203.4 (except § 203.4(e)).

(b) Approval of a lending institution pursuant to paragraph (a) may be withdrawn at any time by notice from the Secretary by reason of:

(1) The transfer of an insured loan to a nonapproved entity;

(2) The failure of a lending institution to submit the required annual audit report of its financial condition within 75 days of the close of its fiscal year; or

(3) The failure of a lending institution to comply with the regulations of this chapter.

Withdrawal of a lending institution's approval shall not affect the insurance on the loans accepted for insurance.

(c) All approved lending institutions are responsible for servicing of emergency loans in accordance with acceptable mortgage practices of prudent lending institutions.

§ 2705.10 Eligible homeowners.

In order to qualify for an emergency loan under Part 2715 or Part 2720, the homeowner must:

(a) Be in arrears in his payments on the delinquent mortgage for at least 3 months;

(b) Have incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions (the lending institution may presume that the homeowner's unemployment or underemployment is due to adverse economic conditions);

(c) Be financially unable to make full mortgage payments on his principal residence;

(d) Have a reasonable prospect of being able to make the adjustments necessary for a full resumption of mortgage payments on the delinquent mortgage the month after the last advance under the emergency loan and for the repayment of the emergency loan pursuant to the terms of the note taken in connection with that loan;

(e) Have not received another emergency loan pursuant to this chapter; and

(f) Sign the application to be sent to the Secretary, as specified in Appendices 2 and 5, which certifies that the information in the application which the homeowner provided is accurate, that circumstances make it probable that there would be a foreclosure if emergency mortgage relief were not given, and that he is in need of such relief.

PARTS 2706—2709 [RESERVED]

PART 2710—TERMS OF EMERGENCY LOANS

Sec.
2710.1 Eligible notes and mortgages.
2710.5 Loan amount.
2710.10 Finance charges.

AUTHORITY: Sec. 108(a) (12 U.S.C. 2707) 89 Stat. 256, Pub. L. 94-50.

§ 2710.1 Eligible notes and mortgages.

(a) The note, mortgage and lending agreement, if any, in connection with an emergency loan pursuant to Part 2715 or 2720 shall be in a form, approved by the Regional Administrator of the HUD Regional Office, for the state in which the mortgaged property is located.

(b) The note evidencing the emergency loan shall bear the signature of the homeowner as maker, shall be valid and enforceable against him, and shall be complete and regular on its face.

(c) Loans shall be secured by an additional mortgage upon the property, which shall be recorded at the time of the closing of the loan.

(d) The note, or a separate lending agreement which may be incorporated by reference in the note, shall provide for the disbursement of the loan proceeds within 12 months. However, the note or loan agreement shall provide that in the event the homeowner's average gross monthly income during the preceding 3 months increases or decreases by 20 percent or more in relation to the gross monthly income of the homeowner at the time the loan amount was established, the homeowner must notify the lender or the collection agent within 30 days. If the homeowner's income increases in the manner indicated, the homeowner shall not be entitled to disbursements in the amounts contemplated by the emergency loan, and at such time the loan shall be recast with respect to the amount of principal and interest on the basis of the homeowner's new income, in such a way as to satisfy the requirements of § 2710.5(a).

(e) The maximum first disbursement of the loan proceeds may be in an amount equal to the loan amount as determined under § 2710.5 divided by 12, times the number of months, not exceeding 12, that the delinquent mortgage is in arrears.

(f) The note shall provide for payments to principal in equal installments falling due monthly beginning no later than 12 months following the date of the last disbursement of loan proceeds.

(g) The note shall provide for payments of interest earned during the disbursement period and interest earned thereafter beginning no later than 6 months following the date of the last disbursement under the loan.

(h) The note shall contain a provision for acceleration of maturity, at the option of the holder, in the event of default in the payment of any installment upon the due date thereof or upon sale of the mortgaged property.

(i) The maximum permissible maturity of the note is 10 years from the date of the note.

§ 2710.5 Loan amount.

(a) Subject to the limitation specified in paragraph (b), the principal amount of the loan, exclusive of finance charges, made under parts 2715 and 2720 shall be equal to the lesser of:

(1) 12 times $250; or

(2) The sum of (i) 12 times the homeowner's mortgage payment after 35 percent of his gross monthly income has been subtracted therefrom, and (ii) the fees allowed under §§ 2715.15 and 2720.15.

(b) The lender or collection agent shall not approve an emergency loan when the outstanding balance, including delinquent interest, of the delinquent mortgage when added to the other liens against the mortgaged property, plus the maximum loan which may be advanced to the homeowner pursuant to this chapter, exceeds the value of the mortgaged property. In determining the value of the property, the lender or collection agent may reply upon previously obtained appraisals or other determinations of value of the property and need not obtain a current appraisal.

§ 2710.10 Finance charges.

The maximum permissible finance charge, exclusive of fees and charges as provided in §§ 2715.10, 2715.15, 2720.15, and 2720.20(d), which may be directly or indirectly paid to or collected by the lender or the collection agent in connection with an emergency loan transaction shall not exceed simple interest on the outstanding principal balance at the annual interest rate for FHA-insured home mortgages as specified in § 203.20 of this title at the time of the closing of the loan. No points or discounts of any kind may be assessed or collected in connection with an emergency loan transaction.

PARTS 2711–2714 [RESERVED]

PART 2715—COINSURANCE

Sec.

2715.1 Delegation of authority.
2715.5 Conditions of insurance.
2715.10 Fees.
2715.15 Insurance premium.
2715.20 Servicing.
2715.25 Termination.
2715.30 Default.
2715.35 Claims.
2715.40 Payment of insurance benefits.
2715.45 Administrative reports and examination.
2715.50 Sale, assignment, and pledge of insured loan.

AUTHORITY: Sec. 108(a), 12 U.S.C. 2707, 89 Stat. 256, Pub. L. 94–50.

§ 2715.1 Delegation of authority.

(a) Lending institutions which have contracts of insurance pursuant to § 2700.10(c) and this part are authorized to accept, process, and approve applications for emergency loans under this part. That authority includes making determinations relating to eligibility of the emergency loan, the homeowner, and the property under the provisions of this chapter.

(b) A lender may make an emergency loan on the terms specified in Part 2710 if it is satisfied that the application meets all of the relevant requirements of this chapter. The lender shall prepare a note, loan agreement, if any, and mortgage as required by Part 2710 which it shall record upon the execution of those documents.

(c) On the last day of the month during which a loan is closed, the lender shall submit to the Secretary an application for an insured loan in the form specified in Appendix 2, signed by the lender and homeowner, which certifies that: the lender, homeowner, and property meet the eligibility requirements of Part 2705; that circumstances (such as the volume of delinquent loans in the investor's portfolio likely to remain uncured) make it probable that there would be a foreclosure if emergency mortgage relief were not given; that the homeowner is in need of such relief; that the investor has indicated to the homeowner its intention to foreclose; and that the first disbursement of the principal amount of the emergency loan has been paid or credited to the homeowner's account with the servicer.

§ 2715.5 Conditions of insurance.

When the requirements of this part have been complied with, the lender's insurance coverage under its insurance contract will apply to a particular loan as of the date of closing, if the lender has not exceeded the insurance authority allocation which the Secretary has given the lender pursuant to § 2700.10(c). When the investor is the lender, the insurance of the emergency loan pursuant to Part 2715 shall be conditioned upon the investor's agreement, for a period up to the month after the last advance under the emergency loan to refrain from instituting foreclosure proceedings against the homeowner as long as the amount delinquent at the time of the origination of the emergency loan, excluding interest thereon, does not increase, unless the prior approval of the Secretary is obtained. From the effective date of the loan until the termination of the insurance with respect to that loan, the Secretary and the lender shall be bound by the provisions of this chapter as they relate to the loan.

§ 2715.10 Fees.

The lender may collect from the homeowner the following fees or charges in conjunction with providing the emergency loan;

(a) A charge to compensate the lender for expenses incurred in originating and closing the emergency loan, including preparation of a note, loan agreement if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed $25;

(b) Actual amounts charged by state or local governments or government officials for recording fees and recording taxes or other charges incident to making the loan;

(c) An amount equal to the annual premium for Federal flood insurance to the extent required; and

(d) An amount equal to the insurance charge authorized under § 2715.15.

§ 2715.15 Insurance premium.

(a) On March 1 of each year the insured shall pay to the Secretary an insurance premium equal to one-half of 1 percent of the average outstanding balance, during the previous calendar year, of all of the emergency loans which the lender holds or held pursuant to this part.

(b) With the payment provided for in paragraph (a), the lender shall submit a breakdown of the premium in the form prescribed in Appendix 3.

(c) Any adjustments of the insurance premium already paid in connection with an emergency loan the mortgage on which is transferred between insureds, shall be made by the insureds, except that any unpaid installments of the insurance premium shall be paid by the purchasing insured.

(d) There shall be no refund or abatement of any portion of the insurance premium except when the premium relates to a loan found to be ineligible. However, no refund shall be made unless a claim is denied by the Secretary or the ineligibility is reported by the insured promptly upon discovery and an application for refund is made. In no event shall charges be refunded when the application for refund is not made until after the loan is paid in full.

§ 2715.20 Servicing.

Servicing functions during the period that the loan is coinsured shall be performed by the lender or the servicer acting for the lender. The lender is responsible to the Secretary for proper servicing, even though the actual servicing is not performed by the lender.

§ 2715.25 Termination.

The insurance coverage and the insured lender's obligation to remit insurance premiums with respect to an emergency loan shall be terminated upon whichever of the following first occurs:

(a) The loan is paid in full;

(b) The lender acquires the property securing the loan and notifies the Secretary that no claim for insurance benefits has been or will be made;

(c) The homeowner and the lender jointly request termination; or

(d) The lender files an insurance claim.

§ 2715.30 Default.

(a) If the homeowner fails to make a scheduled payment or to perform any other obligation under the mortgage securing the emergency loan, the homeowner shall be deemed to be delinquent on the loan.

(b) For purposes of this chapter, the date of default shall be the date 30 days after the first day the insured loan is delinquent, if the delinquency remains uncorrected.

(c) If after default and prior to completion of foreclosure proceedings, the homeowner cures the default, the insurance shall continue as if a default had not occurred, provided the homeowner pays to the lender any expenses the lender incurred in connection with the foreclosure proceedings.

§ 2715.35 Claims.

(a) Claims for reimbursement for loss on an emergency loan shall be made on the form specified in Appendix 4 and executed by a duly qualified officer or agent of the insured. The claim shall be accompanied by the lender's complete credit and collection file, or a copy of such file certified by the lender to be a complete and exact copy of the file retained by the lender, pertaining to the transaction.

(b) Claims may be filed after default, sale of the mortgaged property, or foreclosure of a lien senior to the mortgage securing the coinsured emergency loan, provided demand has been made upon the homeowner for the full unpaid balance of the note.

(c) If the emergency loan is in default, the insured lender may elect to (1) proceed against the mortgage on the loan or attempt to collect on the note and then make a claim under its insurance contract if there is any net loss, or (2) make a claim under its insurance contract without proceeding against the security or the note.

(d) Claims shall be filed on the last day of the month, no later than 90 days after the date of default, unless the lender proceeds against the mortgage securing the emergency loan in which case no later than 1 year after the date of default. If at the time of default or at any time subsequent to the default a person primarily or secondarily liable for the repayment of a loan is a "person in military service," as such term is defined in the Soldier's and Sailor's Civil Relief Act of 1940, as amended, the period during which he is in military service and 3 months thereafter shall be excluded in computing the time within which a claim for insurance benefits under this part may be made. When the facts of a particular case have been described to the Secretary within the allowable claim period prescribed in this section, the Secretary may extend the time within which claim must be made, provided that in computing the claim no interest will be allowed for the period of such extension.

(e) An insured lender will be reimbursed for its losses on loans made in accordance with this chapter, in an amount equal to 90 percent of the sum of the following:

(1) The unpaid amount of the loan less the amount recovered;

(2) The uncollected interest earned up to the date of claim;

(3) Uncollected court costs, including fees paid for issuing, serving and filing summonses;

(4) Attorney's fees actually paid not exceeding the lesser of (i) 25 percent of the amount collected by the attorney on the defaulted note, or (ii) 15 percent of the balance due on the note; and

(5) Up to $25 for expenses actually incurred in recording assignments of mortgages to the United States of America.

(f) The note and any mortgage held or judgment taken by the claimant must be assigned in its entirety and if any claim has been filed in bankruptcy, insolvency, or probate proceedings, such claim shall be likewise assigned to the United States of America. The assignment shall be in the form, approved by the Regional Administrator of the HUD Regional Office, for the state in which the mortgaged property is located.

§ 2715.40 Payment of insurance benefits.

Upon receipt of a claim for insurance benefits which meets the requirements of § 2715.35 and the other provisions of this chapter, the Secretary shall make a payment of insurance benefits in cash to the claimant in an amount equal to the amount specified in § 2715.35(e), subject to the following limitation: the aggregate amount of insurance benefits paid by the Secretary to any lender shall not exceed 40 percent of the aggregate amount advanced by such lender pursuant to this part.

§ 2715.45 Administrative reports and examination.

At any time, the Secretary may call upon an insured lender for such reports as are deemed to be necessary in connection with the regulations of this chapter and may inspect the books or accounts of the lender as they pertain to the loans which are coinsured pursuant to this part.

§ 2715.50 Sale, assignment and pledge of insured loan.

(a) No lender may sell or otherwise dispose of any insured loan except pursuant to this section.

(b) An insured loan may be sold to a lending institution eligible under § 2705.5. Upon such sale, both the seller and the buyer shall notify the Secretary within 30 days.

(c) When an insured loan is sold to another lending institution eligible under § 2705.5, the buyer shall thereupon succeed to all the rights and become bound by all the obligations of the seller under the contract of insurance under this part and the seller shall be released from its obligations under the contract of insurance.

(d) An assignment, pledge, or transfer of an insured loan not constituting an actual transfer of legal title, may be made by the lender to another eligible lending institution, subject to the following conditions:

(1) The assignor, pledgor or transferor shall remain the lender for purposes of the contract of insurance under this part.

(2) The Secretary shall have no obligation to recognize or deal with any party other than that lender with respect to the rights, benefits and obligations of the lender under the contract of insurance.

Notice to or approval of the Secretary is not required in connection with assignments, pledges, or transfers pursuant to this subsection.

PARTS 2716–2719 [RESERVED]

PART 2720—DIRECT LOANS

Sec.

2720.1 Delegation of authority.
2720.5 Application for loan.
2720.10 Transmittal of funds.
2720.15 Fees.
2720.20 Servicing.
2720.25 Default.
2720.30 Collection.
2720.35 Payment to Secretary.
2720.40 Administrative reports and examination.

AUTHORITY: Sec. 108(a), 12 U.S.C. 2707, 89 Stat. 256, Pub. L. 94-50.

§ 2720.1 Delegation of authority.

A servicer or investor which has a contract to act as the Secretary's collection agent pursuant to § 2720.10(c) and this part, is authorized to accept, process and approve applications for direct loans under this part in the form specified in Appendix 5. That authority includes making determinations relating to the eligibility of the direct loan, homeowner, and property, pursuant to the provisions of this chapter. Direct loans, however, may only be made pursuant to this part when the investor cannot make an emergency loan under Part 2715 for one of the following reasons:

(a) the investor has a liquidity problem and cannot obtain advances as authorized by Section 113 of the Emergency Homeowners' Relief Act or by Section 10, 10b, or 11 of the Federal Home Loan Bank Act; or

(b) other good reason, as determined by the Secretary.

§ 2720.5 Application for loan.

The agreement to process an application for a direct loan shall constitute an acceptance of the lending institution of the responsibility to act as the collection agent of the Secretary with respect to that particular application. The agent shall make a loan on behalf of the Secretary on the terms specified in Part 2710 if it is satisfied that the application meets all of the requirements of this chapter. The agent shall prepare a note, loan agreement, if any, and mortgage in the form specified in § 2710.1(a). The agent shall record the mortgage upon the closing of the loan. The agent shall make the first advance of the loan, as provided for in § 2710.1(e), using its own funds. On the last day of the month during which the loan is closed, the agent shall submit to the Secretary a copy of the application signed by the agent and the homeowner certifying: that the agent, homeowner, and property qualify under Part 2705; that circumstances (such as the volume of delinquent loans in the investor's portfolio likely to remain uncured) make it probable that there would be a foreclosure if emergency mortgage relief were not given; that the homeowner is in need of such relief; that the investor has indicated to the homeowner its intention to foreclose; and that the first advance of the emergency loan has been paid or credited to the homeowner's account with the servicer.

§ 2720.10 Transmittal of funds.

When the requirements of this part have been complied with, the Secretary will transmit to the collection agent, pursuant to the monthly accounting prescribed in § 2720.20, the emergency loan proceeds as long as the agent has not exceeded the lending authority allocation which the Secretary has given the agent pursuant to § 2700.10(c). When the investor is the collection agent, the transmittal of funds under this section shall be conditioned upon the investor's agreement, for a period up to the month after the last advance under the emergency loan, to refrain from instituting foreclosure proceedings against the homeowner as long as the amount delinquent at the time of the origination of the emergency loan, excluding interest thereon, does not increase, unless the Secretary's prior approval is obtained. From the processing of the application until the satisfaction of the debt or the final accounting pursuant to § 2720.35, the Secretary and the collection agent shall be bound by the provisions of this chapter with respect to a particular direct loan.

§ 2720.15 Fees.

The collection agent may collect from the homeowner the following fees or charges in conjunction with providing the emergency loan:

(a) A charge to compensate the agent for expenses incurred in originating and closing the emergency loan, including preparation of a note, loan agreement, if any, and a mortgage in a form satisfactory for recordation, the total charge not to exceed $25;

(b) Actual amounts charged by state or local governments or government officials for recording fees and recording taxes or other charges incident to making the loan; and

(c) An amount equal to the charge specified in § 2720.20(d).

§ 2720.20 Servicing.

(a) Servicing functions during the period that the loan is outstanding shall be performed by the collection agent.

(b) On the same day each month, while the collection agent is servicing direct loans for the Secretary, the agent shall submit a monthly accounting in the form prescribed in Appendix 6 for all of the direct loans which it services. The accounting shall list the amount of funds which it advanced under direct loans during the previous calendar month. In addition, the accounting shall list the amount paid to the agent under the direct loans serviced by the agent during the previous calendar month.

(c) If, pursuant to the monthly accounting, the funds advanced by the agent exceeds the sum collected by the agent, the Secretary shall remit the difference to the agent, as long as the Secretary finds the accounting in order. If, pursuant to the monthly accounting, the sum collected by the agent exceeds the funds advanced by the agent, the agent shall remit the difference when he submits the monthly accounting to the Secretary.

(d) In March of each year, the agent shall include in its monthly accounting a charge payable by the agent to the Secretary equal to one half of 1 percent of the average outstanding balance during the previous calendar year of all of the direct loans it services. That charge shall be included in the computation in paragraph (b) of the sum payable by the agent or the Secretary, for purposes of that month.

§ 2720.25 Default.

(a) If the homeowner fails to make any payment or to perform any other obligation under the mortgage securing the emergency loan, the homeowner shall be deemed to be delinquent on the loan.

(b) For purposes of this part, the date of default shall be the date 30 days after the first day the direct loan is delinquent, if the delinquency remains uncorrected.

(c) If after default and prior to completion of foreclosure proceedings, the homeowner cures the default and pays any expenses incurred in connection with the foreclosure proceedings, the loan shall be deemed reinstated.

§ 2720.30 Collection.

(a) If a direct loan is in default, the collection agent shall elect to (1) proceed against the mortgage securing the loan or attempt to collect on the note and then to make an accounting and payment, as provided in § 2720.35, to the Secretary, or (2) make an accounting and payment to the Secretary without proceeding against the mortgage or the note.

(b) If at the time of default or at any time subsequent to the default, a person primarily or secondarily liable for the repayment of a loan in a "person in military service," as such term is defined in the Soldier's and Sailor's Civil Relief Act of 1940, as amended, the agent shall refrain from instituting foreclosure proceedings against the homeowner while he is in the military service and that period shall be excluded in computing the time within which an accounting and payment are to be made pursuant to § 2720.35.

§ 2720.35 Payment to the Secretary.

(a) Before the expiration of the period of 90 days after the date of default, unless the collection agent proceeds against the mortgage in which case before the expiration of the period of one year after the date of default, the collection agent shall transmit to the Secretary on the last day of the month: (1) The complete credit and collection file pertaining to the emergency loan; and (2) the amount recovered less the sum of (i) uncollected court costs, including fees paid for issuing, serving and filing summonses and (ii) attorney's fees actually paid, not exceeding the lesser of (A) 25 percent of the amount collected by the attorney on the defaulted note, or (B) 15 percent of the balance due on the note.

(b) At the same time the collection agent makes the transmittal as provided in paragraph (a), it shall share the loss on the loan by making a payment to the Secretary in an amount equal to 10 percent of the sum of the following:

(1) The unpaid amount of the loan less the amount recovered;

(2) The uncollected interest earned up to the date of the full accounting;

(3) Uncollected court costs, including fees paid for issuing, serving and filing summonses; and

(4) Attorney's fees actually paid, not exceeding the lesser of (i) 25 percent of the amount collected by the attorney on the defaulted note or (ii) 15 percent of the balance due on the note.

Accompanying that payment shall be a full accounting of the loan in the form specified in Appendix 7 and the note, mortgage securing the loan, and any judgment taken.

(c) Notwithstanding the provisions of subsection (b), in the event that the aggregate loss borne by the Secretary reaches 40 percent of the aggregate amount of the emergency loans originated by the collection agent on behalf of the Secretary, the collection agent shall bear the burden of any loss in excess of that 40 percent by making an appropriate payment to the Secretary within the time period specified in subsection (a).

§ 2720.40 Administrative reports and examinations.

The Secretary may at any time call for a report from any collection agent on the delinquency status of the loans held by such agent on behalf of the Secretary or call for such reports as may be deemed to be necessary in connection with the provisions of this chapter, or the Secretary may inspect the books or accounts of the collection agent as they pertain to those loans.

PARTS 2721—2724 [RESERVED]

PART 2725—APPENDICES

Appendix 1—Application for insurance or direct loan authority allocation—application for contact.
Appendix 2—Application for insured loan.
Appendix 3—Premium form.
Appendix 4—Insurance claim form.
Appendix 5—Application for direct loan.
Appendix 6—Monthly accounting of direct loans.
Appendix 7—Direct loan final accounting.

APPENDIX 1—APPLICATION FOR INSURANCE OR DIRECT LOAN AUTHORITY ALLOCATION—APPLICATION FOR CONTRACT

HUD Form No. OMB No.

Name & Address of Mortgagee

U.S. Department of Housing and Urban Development
Emergency Homeowners' Relief Act Application for Insurance or Direct Loan Authority Allocation - application for contract

Date of Application: _____
Mortgagee Reference No. _____

Amount of Allocation Requested[2] $ _____

Check one: ( ) Insurance authority under 24 CFR, Part 2715.
( ) Direct loan authority under 24 CFR, Part 2720.

FOR OFFICIAL USE ONLY
Amount of Allocation Approved: $ _____
Authorized by _____ Date _____

Send to: U.S. Department of Housing & Urban Development
Room
451 Seventh Street, S. W.
Washington, D. C. 20410

Total Mortgage Loans Held by Mortgagee[1]
Amount of Loans ($ in thousands) $ _____
Number of Loans _____

Mortgage Loans in Portfolio which are Delinquent 3 Months or More
Amount of Loans ($ in thousands) $ _____
Number of Loans _____

Mortgage Loans for which Allocation is Requested[2]
Loans Held in Applicant's Name
Amount of Loans ($ in thousands) $ _____
Number of Loans _____

Loans Not Held in Applicant's Name
Amount of Loans ($ in thousands) $ _____
Number of Loans _____

[1] Include all mortgage loans held whether serviced or not.
[2] The request for an allocation must be in full compliance with 24 CFR, Section 2712.
Note: For the purposes of this form, mortgage loan means only those loans as defined in 24 CFR, Section 2700.5

An application for an insurance authority allocation shall constitute an application for a contract of insurance pursuant to 24 CFR, Part 2715. An allocation of insurance authority shall constitute acceptance by the Secretary of the applicant's application for a contract of insurance, the terms of which are embodied in 24 CFR, Chapter XV.
An application for direct loan authority allocation shall constitute an application for a contract to act as the Secretary's collection agent pursuant to 24 CFR, Part 2720. An allocation of direct loan authority shall constitute acceptance by the Secretary of the applicant's application for a contract to act as the Secretary's collection agent, the terms of which are embodied in 24 CFR, Chapter XV.

APPLICANT'S CERTIFICATION: The undersigned applicant certifies that to the best of his knowledge all statements in this application are true, correct and complete.

Signature/Title of Applicant _____ Date _____

PLEASE ENCLOSE A SELF ADDRESSED ENVELOPE WITH THIS APPLICATION FORM

APPENDIX 2—APPLICATION FOR INSURED LOAN

HUD FORM NO. EHRA-2 September 1975 | U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FEDERAL HOUSING ADMINISTRATION | OMB NO. Approval Expires

EMERGENCY HOMEOWNERS' RELIEF ACT
APPLICATION FOR INSURED LOAN

Name and Address of Mortgagee:	*Date of Application:* *Date of Allocation Approval:* *Mortgagee Reference Number:*
Name and Address of Homeowner Requesting Relief (1):	HOMEOWNER'S INCOME & ASSETS PROFILE (2):
	Average gross monthly income during 24-month period prior to temporary loss of employment or underemployment $
	Average gross monthly income during period of delinquency $
Monthly mortgage payment (Principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums) $	*Homeowner's total assets (excluding equity in principal residence, household furniture, equipment used in trade, clothing and automobiles)* $
Total outstanding principal balance of all liens on the property $	EMERGENCY LOAN INFORMATION (3):
Amount of interest in arrears $	*Date of initial disbursement of principal amount*
Total amount in arrears $	*Amount of initial disbursement* $
Number of months Delinquent	*Amount of subsequent monthly emergency loan disbursements* $
Date of Notice to Foreclose	*Total amount of emergency loan* $
Type of Mortgage in Default (Check one): ☐ *First Mortgage* ☐ *Other (Specify)*	*Mortgagee's insurance authority allocation (in thousands)* $ *Total insured loans made to date (include total amount of emergency loan listed above — — in thousands)* $

NOTES: (1) The homeowner must meet all eligibility requirements contained in 24 CFR, Section 2705.10.
(2) Homeowner's income as defined in 24 CFR, Section 2700.5(j).
(3) The emergency loan must comply with all requirements in 24 CFR, Part 2710.

SEND TO:
U. S. Department of Housing and Urban Development
Room
451 Seventh Street, S. W.
Washington, D.C. 20410

WARNING

Section 1001 of the U. S. Criminal Code (18 U.S.C.) provides in part: . . "Whoever, in any manner within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

HOMEOWNER'S CERTIFICATION

The undersigned homeowner certifies that to the best of his knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the homeowner certifies that circumstances make it probable that there will be a foreclosure and that the homeowner is in need of emergency mortgage relief. The undersigned homeowner also certifies that he is financially unable to make full mortgage payments because of a substantial reduction in income resulting from involuntary unemployment or underemployment due to adverse economic conditions.

_____
Signature of Homeowner

_____
Date

MORTGAGEE'S CERTIFICATION

The undersigned mortgagee certifies that to the best of his knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the undersigned mortgagee certifies that the above homeowner is fully qualified for an emergency loan under Chapter XV, 24 CFR, and that the homeowner has a reasonable prospect of being able to make the adjustments necessary for a full reinstatement of his mortgage payments. The undersigned mortgagee also certifies that it has determined on _____ (date) *that if the emergency loan had not been granted the lender would have foreclosed.*

_____
Signature/Title of Mortgagee

_____
Date

NOTE: The mortgagee may use any work documents necessary to support the information shown on this form. Such work documents should be retained in the mortgagee's file for submission to HUD with any claim made on the insured loan.

APPENDIX 3—PREMIUM FORM

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Finance and Accounting
EMERGENCY HOMEOWNER'S MORTGAGE RELIEF LOAN PROGRAM
COMPUTATION OF PREMIUM DUE HUD

☐ Coinsured Loan ☐ Direct Loan

1. Name and address of lender or collection agent

2. Identification Number ☐☐☐☐☐ ☐☐☐ ☐☐

3. Annual Premium Period

_____ (Month # 1) to _____ (Month # 12)

4. Total Amount of Loan Principal Outstanding End of Each Month of the Premium Period,

1	2	3	4
$	$	$	$
5	6	7	8
$	$	$	$
9	10	11	12
$	$	$	$

5. Annual Premium Computation

A. Total Loan-Months Principal Outstanding (Total Blocks 1 thru 12) $ _____

B. Average Loans Outstanding (Line A ÷ 12) _____

C. Premium Due (Line B x .005) $ _____

6. CERTIFICATION: The undersigned hereby certifies that the amounts listed above comprise the complete basis for the computation of the annual premiums due for the loans insured by HUD or emergency mortgage relief payments serviced by the collection agent, and the information shown herein is true and correct to the best of his knowledge and belief.

_____ Date

_____ Signature and Title of Official of Lender or Collection Agent

APPENDIX 4—INSURANCE CLAIM FORM

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Finance and Accounting
LENDER'S CERTIFICATION OF CLAIM FOR DEFAULTED COINSURED EMERGENCY HOMEOWNER'S MORTGAGE RELIEF LOAN

1. Lender's Name, Address and Zip Code	2. Claim Amount $ / 3. Claim Date
	4. Date of Default / 5. Date of Foreclosure
	6. Date of Military Service (if applicable under Section 2715.35(e))
Lender's Identification Number	7. HUD USE ONLY Claim Number
8. Property Location	9. Homeowner's Name and Address

10. Computation of Claim Amount:

a. Unpaid Loan Principal Balance	$	
b. Uncollected Interest to Date of Claim		
c. Sum of Principal and Interest Due (a - b)		
d. Less: Recoveries		$
e. Net Loan Balance Due (c - d)		
f. Court Cost		
g. Attorney's Fees		
h. Recording Expenses (not to exceed $25)		
i. Total Expenses (f + g + h)		
j. Total Losses on Loan (e + i)		
k. 90% of Losses on Loan (.9 x j)		
l. Aggregate Insurance Benefits Received to Date		
m. 40% of Aggregate Amount of Loans Made pursuant to 24 CFR, Part 2715		$
n. Claim amount (the lesser of k and (m - k - l))		

WARNING

Section 1001 of the U.S. Criminal Code (18 U.S.C.) provides in part: "Whoever, in any matter within the jurisdiction of any department ... of the United States knowingly and willfully ... makes any false ... or fraudulent statements or representations ... shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

CERTIFICATION: The undersigned hereby certifies that the amounts listed above comprise the complete basis of the claim on the insured loan for the property and mortgagor identified above, and the information shown herein is true and correct and is documented to the extent required in the credit and collection file transmitted herewith.

Date _____ Signature and Title of Official of Lender _____

APPENDIX 5—APPLICATION FOR DIRECT LOAN

[Reserved.]

HUD FORM NO. RRRA-5 September 1975 — U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT — FEDERAL HOUSING ADMINISTRATION — OMB NO. Approval Expires

EMERGENCY HOMEOWNERS' RELIEF ACT
APPLICATION FOR DIRECT LOAN

Name and Address of Mortgagee:	*Date of Application:* *Date of Allocation Approval:* *Mortgagee Reference Number:*

Name and Address of Homeowner Requesting Relief (1):	HOMEOWNER'S INCOME & ASSETS PROFILE (2):
	Average gross monthly income during 24-month period prior to temporary loss of employment or underemployment: $
	Average gross monthly income during period of delinquency: $
Monthly mortgage payment (principal, interest, taxes, ground rents, hazard insurance and mortgage insurance premiums): $	*Homeowner's total assets (excluding equity in principal residence, household furniture, equipment used in trade, clothing and automobiles):* $
Total outstanding principal balance of all liens on the property: $	EMERGENCY LOAN INFORMATION (3):
Amount of interest in arrears: $	*Date of initial disbursement of principal amount:*
Total amount in arrears: $	*Amount of initial disbursement:* $
Number of months delinquent:	*Amount of subsequent monthly emergency loan disbursements:* $
Date of Notice to Foreclose:	*Total amount of emergency loan:* $
Type of Mortgage in Default (Check one): ☐ *First Mortgage* ☐ *Other (Specify)*	*Mortgagee's direct loan authority allocation (in thousands):* $ *Total direct loans made to date (include total amount of emergency loan listed above ---- in thousands):* $

NOTES: (1.) The homeowner must meet all eligibility requirements contained in 24 CFR, Section 2700.10.
(2) Homeowner's income as defined in 24 CFR, Section 2700.5(j).
(3) The emergency loan must comply with all requirements in 24 CFR, Part 2710.

SEND TO:
U. S. Department of Housing and Urban Development
Room
451 Seventh Street, S. W.
Washington, D. C. 20410

WARNING

Section 1001 of the U.S. Criminal Code (18 U.S.C.) provides in part: . . . "*Whoever, in any manner within the jurisdiction of any department . . . of the United States knowingly and willfully . . . makes any false . . . or fraudulent statements or representations . . . shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.*"

HOMEOWNER'S CERTIFICATION

The undersigned homeowner certifies that to the best of his knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the homeowner certifies that circumstances make it probable that there will be a foreclosure and that the homeowner is in need of emergency mortgage relief. The undersigned homeowner also certifies that he is financially unable to make full mortgage payments because of a substantial reduction in income resulting from involuntary unemployment or underemployment due to adverse economic conditions; that his mortgage payments are at least three (3) months in arrears, that the current value of his assets (excluding equity in his principal residence, household furniture, equipment used in trade, clothing and automobiles) does not exceed $5,000 and that he has not received another emergency loan under the Emergency Homeowners' Relief Act.

Signature of Homeowner

Date: _____

MORTGAGEE'S CERTIFICATION

The undersigned mortgagee certifies that to the best of his knowledge all statements in this application and in all supporting documents are true, correct and complete. Furthermore, the undersigned mortgagee certifies that the above homeowner is fully qualified for an emergency loan under Chapter XV, 24 CFR, and that the homeowner has a reasonable prospect of being able to make the adjustments necessary for a full resumption of his mortgage payments. The undersigned mortgagee also certifies that it had determined on _____ (Date) *that if the emergency mortgage loan had not been granted the lender would have foreclosed.*

Signature/Title of Mortgagee

Date: _____

NOTE: The mortgagee may use any work documents necessary to support the information shown on this form. Such work documents should be retained in the mortgagee's file for re-examination by HUD with loan accounting made in connection with the direct loan.

APPENDIX 6—MONTHLY ACCOUNTING FOR DIRECT LOANS

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Finance and Accounting
CERTIFICATION AND REQUEST FOR SETTLEMENT OF DIRECT LOAN ACCOUNT
EMERGENCY HOMEOWNER'S MORTGAGE RELIEF LOAN PROGRAM

1. Collection agent's name and address (including zip code)	2. Identification Number ☐☐☐☐☐ ☐☐☐ ☐☐
3. For Month Ending	4. Number of Direct Loans Serviced
	5. Accrued Interest (Mar., June, Sept. & Dec. reports only)

6. Analysis of Direct Loan Principal Account

A. Direct Loan Principal Balance Beginning of Month		$
B. Direct Loan Disbursements during the month		
C. Subtotal		$
D. Less: (1) Loan Principal Repayments during the month	$	
(2) Transfers During Month of Accountability for Loans (Principal Amount only)		
E. Direct Loan Principal Balance End of Month		$

7. Computation of Balances

	Amount Due HUD (1)	Amount Due Col. Agent (2)
A. Net Principal Collections and Disbursements		
(1) If in Block 6 Line B is greater than Line D (1)	[redacted]	$
(2) If in Block 6 Line D (1) is greater than Line B	$	[redacted]
B. Due HUD for Annual Premiums (If applicable attach Form HUD ____)		[redacted]
C. Interest Included in Repayments		[redacted]
D. Totals		
E. 1. Amount Due HUD (If Column 1. is greater)	$	[redacted]
2. Amount Due Collection Agent (If column 2 is greater)	[redacted]	$

WARNING

Section 1001 of the U.S. Criminal Code (18 U.S.C.) provides in part: "Whoever, in any matter within the jurisdiction of any department ... of the United States knowingly and willfully ... makes any false ... or fraudulent statements or representations ... shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

8. CERTIFICATION: The undersigned hereby certifies that the amounts listed above comprise the complete basis of the monthly settlement on the direct loans serviced by the collection agent, the information shown herein is true and correct and is documented as required.

Date _____ Signature and Title of Official of Collection Agent _____

APPENDIX 7—DIRECT LOAN FINAL ACCOUNTING

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Finance and Accounting
TRANSFER OF ACCOUNTABILITY FOR DEFAULTED DIRECT LOAN
EMERGENCY HOMEOWNER'S MORTGAGE RELIEF LOAN PROGRAM

1. Collection Agent's name, address and zip code Collection Agent's Identification Number ☐☐☐☐☐ ☐☐☐ ☐☐	2. Original Amount of Loan 3. HUD USE ONLY Transfer No. _____ 4. Date of Default 5. Date of Foreclosure 6. Dates of Military Service (if applicable under Section 2720.30(b)
7. Homeowner's Name, Address and Zip Code	8. Property Location
9. Unpaid Principal Balance at Time of Final Accounting $	10. Uncollected Interest Earned to Date $

11. Final Accounting

A. Recoveries of Unpaid Loan Balance $_____

B. Less: (1) Uncollected Court Costs $_____

(2) Attorney's Fees - Lesser of:
(a) 25% of amount collected by attorney _____
(b) 15% of Block 9 _____ _____

C. Subtotal (enter 0 if less than 0) _____

D. Add:

(1) Unpaid Principal Balance (Block 9) _____

(2) Uncollected Interest to Date _____

(3) Uncollected Court Costs _____

(4) Attorney's Fees - Lesser of
(a) 25% of amount collected by attorney _____
(b) 15% of Block 9 _____

E. Subtotal 2 _____

F. Less: Recoveries of Unpaid Loan Balance _____

G. Net Loss on Loan $_____

H. 10% of line C _____

I. Aggregate losses borne by HUD in connection with transfer of accountability for direct loans by collection agent _____

J. 40% of Aggregate Amount of Direct Loans Made by Collection Agent _____

K. Collection Agent's Share of Loss (the greater of line H and (line I + 90% of line G - line J)) _____

L. Final Settlement Amount due HUD (line C + line K) $_____

WARNING

Section 1001 of the U.S. Criminal Code (18 U.S.C.) provides in part: "Whoever, in any matter within the jurisdiction of any department ... of the United States knowingly and willfully ... makes any false ... or fraudulent statements or representations ... shall be fined not more than $10,000 or imprisoned not more than 5 years, or both."

12. Certification: The undersigned hereby certifies that the amounts listed above comprise the complete basis of the final settlement on the direct loan for the property and mortgagor identified above, and the information shown herein is true and correct and is documented to the extent required in the credit and collection file transmitted herewith.

_____ _____

Date Signature and Title of Official of Collection Agent

PARTS 2726—2799 [RESERVED]

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

Issued at Washington, D.C., October 1, 1975.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

[FR Doc.75-26878 Filed 10-8-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-75-440]

EMERGENCY HOMEOWNERS' RELIEF

Description of Standard To Determine When To Activate Standby Authority

This notice, which is being published concurrently with the proposed regulations on the Emergency Homeowners' Relief Program, contains a detailed explanation of the composite delinquency index used to determine when the standby authority should be implemented. The following description was incorporated as Appendix B in the Department's First Report to Congress on the Emergency Homeowners' Relief Act, submitted August 29, 1975.

DESCRIPTION OF A STANDARD TO DETERMINE WHEN TO ACTIVATE THE STANDBY AUTHORITY OF TITLE I, EMERGENCY HOUSING ACT OF 1975.

This Appendix describes the standard which has been developed to determine when an emergency situation exists which would justify activating the Emergency Home Mortgage Relief Program, Title I of the Emergency Housing Act of 1975.

The standard has two important characteristics:

1. It is a quarterly weighted index of home mortgage delinquencies and foreclosures, compiled from presently collected and readily available data.

2. It is designed on a national basis.

Each of these attributes will be explained more fully in turn.

I. CONSTRUCTION OF A DELINQUENCY/FORECLOSURE INDEX

A. *Introduction.*

There is no single source of national, comprehensive delinquency and foreclosure data. Three government agencies and four private trade associations collect delinquency and foreclosure data which are potentially useful in responding to Section 111 of the Emergency Housing Act of 1975 and in designing an index to determine when to activate the standby authority of Title I. The sources of data are: The Department of Housing and Urban Development, the Veterans Administration, and the Federal Home Loan Bank Board; and the Mortgage Bankers Association of America, the American Life Insurance Association, the National Association of Mutual Savings Banks, and the U.S. League of Savings Associations.

Inasmuch as the respective surveys are intended to serve the needs of the collection agency or association rather than a common objective, they differ somewhat in the definitions employed, the kinds of information compiled, or the frequency of the respective surveys. In addition, there is some overlapping, with a number of financial institutions that hold mortgage loans reporting in two or more surveys on the same types of data.

Bearing in mind the difficulties that are likely to be encountered, this paper describes the process of combining a number of the individual data series into a composite series that provides an overall picture of delinquencies of loans on 1-4 family homes. By definition, delinquencies include loans in foreclosure and each of the statistical series on delinquencies take foreclosures into account. As described later in this Appendix, delinquency statistics provide a good leading indicator of prospective foreclosures. For this reason, and because of the limited statistics on loans in foreclosure, there is no comparable effort to develop a composite series on loans in foreclosure.

The remainder of this section is divided into four subsections. Subsection B describes the existing statistics of loan delinquencies and foreclosures compiled by the aforementioned federal agencies and private trade associations. Subsection C compares the delinquencies of 60 days or more reported by the respective agency or associations for FHA-insured, VA-guaranteed and conventional home loans. Subsection D describes the means for combining the individual series and Subsection E shows the consolidation results.

B. *Description of Existing Data Series.*

1. *Veterans Administration.* Since 1948 the Veterans Administration has compiled monthly statistics on the number of VA-guaranteed home loans for which there are "defaults pending" and "claims pending". The first classification is a reasonable approximation of loans that are delinquent 60 days or more, since the term "defaults pending" is defined as having missed at least two monthly payments. The second classification approximates loans in foreclosure. The sum of "defaults pending" plus "claims pending" provides a measure of total loans that are delinquent 60 days or more.

This combined figure can be related to total VA-guaranteed home loans outstanding to obtain a delinquency rate. The Veterans Administration estimates quarterly total VA-guaranteed home loans outstanding by subtracting from the total number of VA loans closed, the number that have been paid in full and the number for which claims have been paid. All of these figures are cumulative data since inception of the VA home loan guarantee program in the mid 1940's. These VA statistics are available within 3-4 weeks after the report month. The data could be broken down by VA field station.

We believe that the statistics on loan delinquencies and foreclosures of VA-guaranteed home loans that are compiled by the Veterans Administration would appear to be of the type that are needed in order to respond to the Congressional request.

2. *Mortgage Bankers Association of America.* The MBA conducts a quarterly national delinquency survey covering over 7.1 million mortgage loans on 1-4 family residential properties. The surveys compile information on the number of loans that are delinquent one month, two months, and 3 or more months and also loans that are in foreclosure, as of the end of a quarter, and the number of loans placed in foreclosure during the quarter. The statistics distinguish VA-guaranteed, FHA-insured, and conventional loans. FHA-insured 235 and 237 loans are also reported separately from all other FHA-insured loans. All of the MBA satistics are broken down by state. The survey results are available in about 12 weeks after the report date.

The MBA surveys on loan delinquencies began in September 1953, and in December 1961, a breakdown of loans in foreclosure was instituted. In December 1972, the surveys were substantially expanded to provide statistics by states and to add information on loans placed into foreclosure during the quarter. Moreover, the survey sample was increased from 400 to 1,300 financial institutions, but responses are received from about 770 institutions—a response rate of 59 percent. About 400 of these are mortgage companies and the remainder are a mixture of commercial banks, mutual savings banks, savings and loan associations and life insurance companies.

As of October 1, 1974, according to the Census Bureau, there were approximately 51.3 million single family homes and another 9.5 million dwellings located in structures with 2-4 family units. It is estimated that there are about 34 million mortgage loans on these 1-4 family homes so that the MBA survey covers about 20 percent of these loans. In dollar terms, as of March 31, 1975, the MBA surveys covered $98 billion of debt, or about 23 percent of total mortgage loans on 1-4 family homes then outstanding.

The MBA survey suffers from three deficiencies. First, they are heavily weighted with FHA and VA loans, which together account for 75 percent of the loans covered by the MBA surveys. In contrast, FHA and VA loans constitute only 29 percent of total mortgage loans outstanding on 1-4 family homes, as of March 31, 1975.

Second, the MBA surveys have an inherent bias that shows FHA and VA loans in an unfavorable light. This is due to the fact that the mortgage companies, who account for most of the survey respondents, necessarily make better conventional loans since they have to sell these loans in the secondary market solely on the basis of quality without a backup by FHA or VA. This is illustrated by MBA's own comparison of its survey results with those obtained via surveys conducted by the U.S. League of Savings Associations and NAMSB. The comparison finds that MBA delinquency rates are higher than those of the other surveys for FHA and VA loans, but lower than the other surveys for conventional loans.

Third, the loans covered by the MBA surveys are concentrated in States where there is heavy mortgage banking activity (Southeast, Southwest and Far West sections of the U.S.). This geographic pattern differs from the geographic distribution of 1-4 family homes and presumably outstanding mortgage loans.

3. *American Life Insurance Association.* The most comprehensive statistics on mortgage loan delinquencies and foreclosures are those collected by the American Life Insurance Association since 1954. ALIA compiles data from 73 life insurance companies that account for 83 percent of mortgages held by all U.S. life insurance companies on mortgage loans that are delinquent two months or more (three months for farm loans), loans in foreclosure (which are counted as part of loans delinquent), and loans foreclosed since the beginning of the year. The data show separate figures for FHA-insured, VA-guaranteed, Canadian and conventional mortgage loans, with the FHA, Canadian and conventional statistics further broken down by type of property—1-4 family homes, multi-family and non-residential. There are also separate figures for farm mortgage loans.

Delinquency and foreclosure rates are calculated by relating the reported delinquent and foreclosed loans to the loans held, with separate tabulations for number of loans and dollar amounts of loans. The ALIA statistics were compiled quarterly until the end of 1971 and thereafter semi-annually. The survey results are available about three months after the report month.

Since life insurance companies are no longer very active in the home mortgage loan market, their holdings of home mortgage loans are declining and their share of the market is decreasing. Thus, at the end of March 1975, they held $18.1 billion of home loans, or less than five percent of home mortgages outstanding.

4. *National Association of Mutual Savings Banks.* Since the first quarter of 1965, the National Association of Mutual Savings Banks (NAMSB) has compiled quarterly delinquency and foreclosure data from a sample of mutual savings banks that account for over 80 percent of the mortgage loans held by all mutual savings banks. The data include a) loans on 1-4 family homes delinquent three months or more (including those in the process of foreclosure) and b) home loan foreclosures that have been com-

pleted during the quarter. Both statistics are related to mortgage loans held by the banks in order to obtain delinquency and foreclosure rates. Separate statistics are collected for FHA-insured, VA-guaranteed and conventional loans on 1–4 family homes. Results of the surveys are available about 2–3 months after the report month.

Since the NAMSB surveys relate to loan delinquencies of three months or more, their data are not comparable with the statistics collected by FHLBB, ALIA or those compiled by the U.S. League of Savings Associations, but they are comparable to the 90-day delinquency data compiled by MBA.

5. *U.S. League of Savings Associations.* Beginning in January 1955, the U.S. League of Savings Associations has collected monthly statistics from a sample of savings and loan associations on the number of mortgage loans that are in arrears 60 days or more from the payment data stipulated in the mortgage. These delinquency data are related to the mortgages held by the responding associations to obtain a delinquency rate. The statistics are not broken down by type. Nor do they distinguish FHA, VA and conventional loans.

The current sample consists of about 900 savings and loan associations that account for about 43 percent of the mortgage loans held by all associations. The survey results are available in about three weeks after the report month.

The U.S. League's statistics are only an approximation of the delinquency and foreclosure situation in home mortgages, since they do not break down the data by type of property or type of loan, and the mix of loans held by S&Ls changes from time to time. But, in view of the importance of S&Ls in the mortgage market, where they account for about 45 percent of the 1–4 family home loans made, an estimate of their delinquencies is a critical element in any statistics portraying the mortgage loan delinquency situation.

6. *Federal Home Loan Bank Board.* The Federal Home Loan Bank Board (FHLBB) conducts three different surveys relating to mortgage loan delinquencies and foreclosure. First, beginning in January 1973, it has compiled monthly the dollar amount of mortgage loans and contracts that are delinquent 60 days or more at FSLIC Insured Savings and Loan Associations. These amounts are compared to the end of month holdings of mortgage loans by the insured S & L's to obtain a delinquency rate. The data do not distinguish home loans from loans for apartment houses, farm or other non-residential properties nor is there any delineation by type of loan, i.e., FHA, VA or conventional. The FHLBB delinquency figure is available within 3½ weeks after a month's end.

Secondly, the FHLBB has compiled since mid-1962 a quarterly series of the number of completed foreclosures, distinguishing conventional loans from FHA and VA loans combined, in addition to total loans. For each category the number of foreclosures is related to the number of mortgage loans held. From 1962 through 1968 the rate was computed per 1,000 loans held, and since 1969 the rate has been computed as a percent of the loans held. The statistics do not differentiate home loans from loans on other types of property. The data are broken down by State and Federal Home Loan Bank district. Beginning in late 1972, these surveys have been conducted semi-annually. The tabulations are completed about 2–3 months after the report month.

Thirdly, since 1935 the FHLBB has collected statistics from county recording offices on the number of properties on which a foreclosure action, other than tax liens, has been completed during a quarter. The number of such foreclosures completed is then compared to an estimated sum of residential and farm mortgaged properties to calculate a foreclosure rate. The foreclosure data do not differentiate home properties from multi-family residential, non-residential or farm properties. Results of this FHLBB survey are available about 3 months after the end of the quarter. Unlike all of the other data series, the FHLBB data measures delinquencies and foreclosures by the dollar volume of loans outstanding; all others use the number of loans.

Perhaps the most deficient of the three FHLBB series is the statistics on foreclosures completed. In addition to the lack of break downs by type of property and type of loan, this series suffers from incomplete data. Generally, they exclude voluntary deeds of sale in lieu of foreclosure; and there has been a deterioration in the sample of counties reporting since the survey was reconstituted in 1967, with some counties reporting irregularly. Moreover, although the number of foreclosures relate to all kinds of real property, the foreclosure rate is derived by dividing such foreclosures by a measure of mortgaged residential and farm properties; i.e., non-residential properties are omitted from the denominator.

7. *Department of HUD.* Since 1973 the Department of HUD has compiled quarterly data on the "default status of FHA home mortgages in force" showing (a) loans delinquent five months or less, (b) loans delinquent six months or more, (c) loans facing imminent foreclosure, (d) loans for which foreclosure has started, and (e) cases where title to the property is held by the mortgagee. To obtain delinquent rates, the first four items termed "home mortgages in default" are related to the number of loans for which insurance is in force. The latter is approximated by tallying the number of loans that are billed for FHA insurance premiums.

Prior to 1973 the HUD statistics on delinquencies and foreclosures were tabulated only annually, as of the end of the year.

The statistics on defaulted FHA insurance loans are broken down by insuring office and also by FHA program, but there are no comparable breakdowns for the numbers of loans for which insurance is in force. These HUD data are available within one month following the end of the quarter.

Perhaps the greatest weakness of the HUD-compiled data, for the purpose of constructing a single national measure of home mortgage delinquencies and foreclosure, is that their time dimensions are not congruent with any other data series. In the time available to prepare this index, it has not been possible to develop a finer breakdown of the delinquency data.

C. Comparison of Data.

Table 1 shows the delinquency rates for conventional loans on 1–4 family homes reported by the Mortgage Bankers Association of America (MBA), American Life Insurance Association (ALIA), U.S. League of Savings Associations (USLSA) and the National Association of Mutual Savings Banks (NAMSB). In each instance, the data compare the number of loans with delinquencies of 60 days or more (including loans in foreclosure) with the total number of loans held.

Actually, only MBA and ALIA report explicitly 60-day delinquency rates for conventional loans. The USLSA figures are only an approximation, since, in reality, they relate to all loans held by savings and loan associations without regard to type of property and type of loan. But, inasmuch as conventional home loans account for around 70 percent of total mortgage loans held by savings and loan associations, and in the absence of any other statistics on loan delinquencies for S&Ls (measured by number of loans), the USLSA data appear to be a reasonable approximation of conventional home loan delinquencies.

In the case of the NAMSB series, the reported data relate to delinquencies of 90 days or more. These delinquency rates were converted into delinquency rates for delinquencies of 60 days or more by adding a constant differential for each component series—.20 percent for conventional loans, .30 percent for VA-guaranteed loans and .40 percent for FHA-insured loans. These differentials were selected on the basis of a comparison of the unadjusted NAMSB figures for each loan type with the corresponding figure compiled by ALIA.

According to the figures presented in Table 1, the 60-day delinquency rates for conventional home loans reported by the MBA surveys were invariably lower than those reported by the USLSA surveys, but generally higher than those reported by ALIA and NAMSB. In most instances, there were parallel movements in the delinquency rates for all four series in terms of movement direction, but not necessarily in the amplitude of change. Of the 22 dates shown in the Table, the USLSA data were "out of step" on five occasions, while the MBA data moved in opposite directions from the others on two occasions.

For VA-guaranteed home loans, there are four 60-day delinquency series, compiled by MBA, ALIA, NAMSB and the Veterans Administration. These are depicted in Table 2. As will be noted, the delinquency rates reported by the Veterans Administration are higher than the ALIA and NAMSB series, but lower than those reported by MBA. Of the 22 dates shown, the direction of movement for the MBA rates differed from the direction of movement for the VA compiled series on seven occasions. In contrast, ALIA rates moved in opposite direction from the VA series on two occasions and the NAMSB rates moved in opposite direction on three occasions.

Table 3 compares the 60-day delinquency rates for FHA-insured loans as compiled by MBA, ALIA and NAMSB. Although the MBA data exclude the higher risk Sections 235 and 237 programs (beginning with March 1971), the MBA delinquency rates, nonetheless, are appreciably higher than those reported by ALIA and NAMSB. The MBA and ALIA data have the same direction of movement for all dates shown, but the NAMSB data had opposite movements on five occasions.

D. Developing A Composite Delinquency Rate.

Although Section 103(3) of the Emergency Housing Act of 1975 makes reference to delinquencies "for at least three months" as a condition for mortgage assistance, there are insufficient statistics currently available on delinquencies of 90 days or more to permit the construction of a composite data series. Of all the statistics reviewed above, only MBA and NAMSB compile 90-day delinquency data.

On the other hand, VA, USLSA, FHLBB and MBA collect 60-day delinquency statistics; and the NAMSB 90-day delinquency data can be converted into approximate 60-day delinquency figures, as described above. Since whatever composite delinquency rates are developed are likely to be viewed as the measurement that could activate the emergency homeowners' relief authorized by Title I of the Emergency Housing Act of 1975, care should be exercised to assure that the most comprehensive data are employed.

Under the circumstances, and precluding the startup of a new statistical series (which could take many months to inaugurate), the most appropriate measurement of delinquencies and foreclosures that would re-

spond to Section 111 is a composite delinquency rate series.

That is, a series based on loans that are delinquent 60 days or more, including, loans that are in foreclosure. Such a composite delinquency rate series has been constructed as follows:

1. From the statistics presented in Tables 1, 2 and 3 it is evident that there are substantial differences in the rates of delinquency (of 60 days or more) for conventional, VA-guaranteed and FHA-insured home mortgage loans. Conventional loans have the lowest delinquency rates, followed by VA and FHA loans.

2. The conventional delinquency rates can be combined into a composite series by weighting each delinquency rate by the percentage of conventional long-term home loans held by the respective lender group at the end of the indicated quarter.[1] Table 4 shows the percentage distribution of the conventional home mortgage loans held by mutual savings banks, savings and loan associations and life insurance companies at the end of each quarter since December 1969.[2] These percentages are cross-multiplied by the delinquency rates reported by NAMSB, USLSA and ALIA, respectively.

3. The balances (of 22.5 to 28.0 percent) are cross-multiplied by the MBA series on conventional home loan delinquency rates. In effect, the MBA data (which reflect reporting by loan servicers that are MBA members, rather than by the mortgagees) are regarded as representative of delinquency rates for all other holders of conventional home loans. Mortgage companies service in addition to their own holdings, about ¾ of the loans held by federal credit agencies, REITs, pension and retirement funds, about ⅓ of the loans held by federally-supported pools and around 10 percent of the home loans held by commercial banks and state credit agencies.

4. A composite delinquency rate is also calculated for FHA-insured home loans, although the percentage of outstanding loans for which the delinquency rates apply to identifiable mortgage groups is considerably smaller than is the case for conventional home loans. As detailed in Table 5, mutual savings banks and life insurance companies together accounted for 43.3 to 30.3 percent of the outstanding FHA-insured home loans during the past 5½ years. The remaining "balance" percentages reflect FHA loan holdings by FNMA, FHLMC, mortgage pools financed by GNMA-guaranteed securities, commercial banks and savings and loan associations.

5. Since mortgage companies (and other financial institutions performing a mortgage banking function) service a large part of these "balance" holdings of FHA loans, it seems appropriate to construe the MBA delinquency rates as representative of the delinquencies for these mortgagees. Accordingly, the NAMSB, ALIA and MBA delinquency rates are cross-multiplied by the corresponding distribution percentages shown in Table 5.

6. For VA-guaranteed home loans there is no need for a composite delinquency rate series because the Veterans Administration series is based on a 100-percent sample and therefore it is fully representative of all VA-guaranteed loans.

7. The resultant composite delinquency rates for conventional and FHA-insured loans, together with the Veterans Administration series for VA-guaranteed loans, are then combined into a single composite delinquency series. This is done by weighing the three component series by the corresponding end of quarter percent distribution of outstanding conventional, FHA-insured and VA-guaranteed long-term home mortgage loans.[3]

The delinquency/foreclosure index thus compiled includes a direct measure of delinquencies/foreclosures on either a sampling basis or a complete enumeration for over two-thirds of the outstanding home mortgages in the United States. As of the first quarter of 1975, 69.6 percent of all mortgages were VA-guaranteed, or were held by mutual savings banks, savings and loans, or life insurance companies. An additional 10 percent or more are directly represented in the mortgage bankers data. The remainder must be imputed, since there are no precise direct measures of delinquencies or foreclosures, but the degree of coverage in this index is very high.

E. *Analysis of Composite Delinquency Rates.*

Table 7 presents the composite delinquency rates for conventional, VA-guaranteed, FHA-insured and total home mortgage loans for 22 dates, running from December 31, 1969 to March 31, 1975. As will be noted, the delinquency rates for FHA-insured loans have been about double the rates for conventional loans, while the rates for VA-guaranteed loans have been in between, but somewhat closer to the conventional delinquency rates.

The composite delinquency rates for all home loans have been lower than the rates for FHA or VA loans, but higher than the rates for conventional loans throughout the past 5½ years. On March 31, 1975, the composite rate for all loans was 1.10 percent of loans outstanding, or 34 percent higher than the composite rate of .82 percent on March 31, 1970, which was also a recession period. By way of contrast, the composite conventional delinquency rate on March 31, 1975 was 44 percent higher than five years ago, while the VA rate was 24 percent higher and the FHA rate was 45 percent higher.

In other words, use of a composite delinquency rate for all loans serves to moderate the amplitude of fluctuations, reducing the likelihood of sharp swings that might otherwise arise if only a component delinquency series was to be employed.

The index will be calculated quarterly, using the latest available data. A preliminary index will be computed within one month of the end of each quarter, which will include data for that quarter for approximately 60 percent of the index, and data for the previous quarter for the remainder. A revised final index will be calculated within three months of the end of the quarter. This procedure is necessitated by the fact that some of the requisite data will become available only about three months after the end of the quarter to which it refers. Statistical analysis of the preliminary and final indexes over the last five years shows that the two indexes move very closely together, and have always been within .05 percent of each other.

An alternative indicator could be constructed if there were adequate data on a timely basis on loans placed in foreclosure. Since the purpose of Title I is to encourage forbearance, an increase in loans placed in foreclosure would indicate that less forbearance is being practiced by lenders. Delinquencies are a less direct measure of the phenomenon that Title I seeks to prevent. In fact, a rise in delinquencies may imply increased forbearance. Unfortunately, as described in Subsection B, there is only one published data series on loans placed in foreclosure, compiled by the Mortgage Bankers Association. This covers only the mortgages serviced by MBA. The limitations of this series preclude using it as the sole national indicator of foreclosure.

Other government agencies and trade associations include loans placed in foreclosure in their measures of delinquent loans. The delinquency/foreclosure index that we have compiled includes these loans placed in foreclosure, although they cannot be broken out for the other four data sources. We believe, however, based on the best available evidence, that the delinquency/foreclosure index is a good indicator of the extent to which loans are placed in foreclosure. For the MBA data, where both are available separately, the delinquency series moves with loans placed in foreclosure, for conventional, VA, FHA, and all loans combined. At most, delinquencies lead loans placed in foreclosure by one quarter. A rise in delinquencies means that foreclosures will start rising now and complete the rise in another quarter. It would be highly desirable to construct similar analyses for the other data series; the trade associations and government agencies do not collect the necessary data.

If the delinquency-foreclosure pattern apparent in the MBA data holds for other mortgages, then the delinquency/foreclosure index is an appropriate indicator of an emergency; it will tend to lead slightly any increase in foreclosures. It is desirable to have an index which leads the actual occurrence of foreclosure, since the delinquency data is not immediately available after delinquencies occur. Most of the delinquency data is not immediately available, and is reported as of the end of the quarter (whereas a given homeowner might have *initially* fallen into delinquency at the beginning of the quarter and remained in delinquency throughout the quarter). We will learn of increasing delinquencies perhaps 1 to 3 months after they occur. However, since delinquencies do lead foreclosures, and some lenders report monthly, there will be preliminary warnings of impending foreclosures.

TABLE 1.—*Rate of delinquencies of 60 days or more for conventional loans on 1–4 family homes, including loans in foreclosure*

[In percent]

	MBA[1] Data[2] (1)	ALIA[3] Data (2)	USLSA[4] Data (3)	NAMSB[5] Data[6] (4)
1969				
December	0.48	0.34	0.73	0.39
1970				
March	.51	.35	.76	.39
June	.47	.51	.71	.55
September	.53	.56	.75	.58
December	.59	.49	.79	.65
1971				
March	.60	.77	.77	.64
June	.64	.70	.76	.64
September	.60	.54	.84	.67
December	.64	.53	.80	.67
1972				
March	.58	.54	.75	.63
June	.54	.55	.73	.62
September	.58	.56	.78	.64
December	.72	.58	.79	.65

[1] Long-term mortgage loans exclude construction loans to home builders that are not relevant to measurements of delinquencies on loans owed by homeowners.

[2] These figures are derived from the HUD-coordinated monthly surveys of mortgage lending that began in December 1969. These surveys cover 11 lender groups that account for about 98 percent of total home mortgage debt outstanding.

[3] Based on statistics obtained from the HUD-coordinated surveys of mortgage lending.

TABLE 1.—*Continued*

	MBA [1] Data [2] (1)	ALIA [3] Data (2)	USLA [4] Data (3)	NAMSB [5] Data [6] (4)
1973				
March	.69	.59	.84	.64
June	.61	.60	.74	.69
September	.68	.59	.87	.69
December	.73	.58	.79	.65
1974				
March	.86	.61	.85	.66
June	.75	.60	.78	.62
September	.80	.59	.84	.64
December	.86	.58	.88	.75
1975				
March	.94	.62	.94	.79

[1] MBA—Mortgage Bankers Association of America.
[2] 60 plus 90-d delinquencies plus loans in foreclosure.
[3] ALIA—American Life Insurance Association.
[4] USLSA—U.S. League of Savings Associations.
[5] NAMSB—National Association of Mutual Savings Banks.
[6] 90-d delinquencies adjusted by adding 0.20 pct.

TABLE 2.—*Rate of delinquencies of 60 days or more for VA-guaranteed home loans, including loans in foreclosure*

[In percent]

	VA [1] Data [2] (1)	MBA [3] Data (2)	ALIA [4] Data (3)	NAMSB [5] Data [6] (4)
1969				
December	0.94	1.00	0.79	0.77
1970				
March	1.02	1.06	.77	.80
June	.94	.95	.67	.71
September	.89	1.04	.77	.74
December	.94	1.18	.86	.78
1971				
March	1.01	1.17	.81	.82
June	1.09	1.10	.74	.75
September	1.08	1.21	.80	.79
December	1.18	1.45	.87	.81
1972				
March	1.03	1.22		.78
June	1.02	1.07	.69	.73
September	1.02	1.28		.80
December	1.03	1.41	.94	.84
1973				
March	1.07	1.33		.83
June	1.00	1.15	.74	.77
September	1.01	1.44		.80
December	1.05	1.48	.92	.84
1974				
March	1.15	1.47		.89
June	1.00	1.29	.79	.76
September	1.03	1.49		.84
December	1.12	1.67	.96	.88
1975				
March	1.26	1.50		.92
June	1.17			

[1] VA—Veterans Administration.
[2] 60 plus 90-d delinquencies plus loans in foreclosure.
[3] MBA—Mortgage Bankers Association of America.
[4] ALIA—American Life Insurance Association.
[5] NAMSB—National Association of Mutual Savings Banks.
[6] Loans delinquent 90 d or more plus 0.30 pct.

TABLE 3.—*Rate of delinquencies of 60 days or more for FHA-insured loans on 1–4 family homes, including loans in foreclosure*

[In percent]

	MBA [1] Data [2] (1)	ALIA [3] Data (2)	NAMSB [4] Data [5] (3)
1969			
December	1.29	0.91	0.95
1970			
March	1.38	.96	.99
June	1.28	.87	.90
September	1.41	.98	.92
December	1.62	1.06	.97
1971			
March	1.54	1.03	1.07
June	1.53	.98	.99
September	1.69	1.10	1.03
December	1.82	1.13	1.07
1972			
March	1.61		1.03
June	1.64	1.08	.98
September	1.84		1.02
December	1.81	1.37	1.07
1973			
March	1.72		1.09
June	1.52	1.13	1.04
September	1.80		1.07
December	1.88	1.34	1.11
1974			
March	1.84		1.14
June	1.70	1.17	1.01
September	1.81		1.07
December	1.98	1.31	1.12
1975			
March	1.98		1.18

[1] MBA—Mortgage Bankers Association of America.
[2] 60 plus 90-d delinquencies plus loans in foreclosure. Beginning in March 1971 excludes sec. 235 and 237 programs.
[3] ALIA—American Life Insurance Association.
[4] NAMSB—National Association of Mutual Savings Banks.
[5] Loans delinquent 90 d or more plus 0.40 percent.

TABLE 4.—*Distribution of conventional home loans outstanding by major lender group, 1969–75*

[In percent]

	Mutual savings banks (1)	Savings and loan associations (2)	Life insurance companies (3)	Balance (4)
1969				
December	9.1	61.4	6.9	22.6
1970				
March	9.0	61.7	6.8	22.5
June	8.9	61.8	6.7	22.6
September	9.0	61.9	6.5	22.6
December	9.1	62.0	6.4	22.5
1971				
March	9.0	62.0	6.2	22.8
June	9.0	62.2	5.9	22.9
September	9.0	62.3	5.5	23.2
December	8.9	62.4	5.2	23.5

TABLE 4.—*Continued*

	Mutual savings banks (1)	Savings and loan associations (2)	Life insurance companies (3)	Balance (4)
1972				
March	8.8	62.5	5.0	23.7
June	8.8	62.5	5.0	23.7
September	8.7	62.4	4.3	24.6
December	8.7	62.6	4.0	24.7
1973				
March	8.7	62.8	3.7	24.8
June	8.7	62.8	3.5	25.0
September	8.7	62.3	3.2	25.8
December	8.7	61.9	3.1	26.3
1974				
March	8.6	61.9	3.0	26.5
June	8.5	61.5	2.8	27.2
September	8.4	61.4	2.7	27.5
December	8.3	61.4	2.6	27.7
1975				
March	8.2	61.3	2.5	28.0

Source: Department of HUD releases on monthly surveys of mortgage lending.

TABLE 5.—*Distribution of FHA-insured home loans by major lending group, 1969–75*

[In percent]

	Mutual savings banks (1)	Life insurance companies (2)	Balance (3)
1969			
December	25.3	18.0	56.7
1970			
March	25.0	17.7	57.3
June	24.4	17.0	58.6
September	24.0	16.4	59.6
December	25.1	16.8	58.1
1971			
March	23.3	15.3	61.4
June	23.0	14.7	62.3
September	22.1	14.1	63.8
December	21.8	13.6	64.6
1972			
March	21.6	13.1	65.3
June	21.3	12.8	65.9
September	21.1	12.4	66.5
December	21.0	12.1	66.9
1973			
March	21.2	12.0	66.8
June	21.3	11.9	66.8
September	21.1	11.7	67.2
December	20.9	11.4	67.7
1974			
March	20.6	11.3	68.1
June	20.1	11.0	68.9
September	20.1	11.0	68.9
December	19.8	10.5	69.7
1975			
March	19.7	10.7	69.6

Source: Department of HUD releases on monthly surveys of mortgage lending.

TABLE 6.—*Distribution of home mortgage loans outstanding by type of loan, 1969–75*

[In percent]

	FHA insured (1)	VA guaranteed (2)	Conventional loans (3)
1969			
December	22.4	14.0	63.6
1970			
March	22.4	14.0	63.6
June	23.0	14.0	63.0
September	23.0	14.0	63.0
December	22.8	13.5	64.2
1971			
March	23.0	14.0	63.0
June	23.4	13.6	63.0
September	23.0	14.0	63.0
December	23.0	14.0	63.0
1972			
March	22.8	13.9	63.3
June	22.4	13.8	63.8
September	21.7	13.7	64.6
December	21.1	13.7	65.2
1973			
March	20.4	13.6	66.0
June	19.4	13.4	67.2
September	18.8	13.2	68.0
December	18.3	13.3	68.4
1974			
March	17.9	13.3	68.8
June	17.5	13.4	69.1
September	16.8	13.2	70.0
December	16.7	13.0	70.3
1975			
March	16.4	13.0	70.6

Source: Department of HUD releases on monthly surveys of mortgage lending.

TABLE 7.—*Composite delinquency rates for loans on 1–4 family homes*

[In percent]

	Conventional loans [1] (1)	VA loans [2] (2)	FHA loans [3] (3)	Total loans [4] (4)
1969				
December	0.61	0.94	1.14	0.77
1970				
March	.64	1.02	1.21	.82
June	.63	.94	1.12	.78
September	.67	.89	1.22	.83
December	.71	.94	1.36	.89
1971				
March	.73	1.01	1.35	.91
June	.72	1.00	1.32	.90
September	.75	1.08	1.45	.96
December	.74	1.18	1.56	.99
1972				
March	.69	1.03	1.42	.90
June	.67	1.02	1.42	.88
September	.71	1.02	1.59	.94
December	.75	1.03	1.60	.97
1973				
March	.78	1.07	1.53	.97
June	.69	1.00	1.37	.86
September	.79	1.01	1.58	.97
December	.76	1.05	1.66	.96
1974				
March	.83	1.15	1.63	1.01
June	.75	1.00	1.50	.92
September	.81	1.03	1.60	.97
December	.86	1.12	1.74	1.04
1975				
March	.92	1.26	1.75	1.10

[1] Col. 1: Data in table 1, weighted by percent distributions in table 4.
[2] Col. 2: Col. 1 of table 2.
[3] Col. 3: Data in table 3, weighted by percent distributions in table 5.
[4] Col. 4: Cols. 1 and 3 of table 7, weighted by percent distributions in table 6.

II. DEVELOPMENT OF A NATIONAL DELINQUENCY INDEX

A. *Introduction.*

In considering how to implement Title I of the Emergency Housing Act of 1975, one basic question which must be answered is whether or not the program should be administered on a national or a regional or local basis. This question is particularly important with respect to designing the delinquency/foreclosure index.

The legislative history associated with Title I does not clearly establish whether the Congress intended for the Department of Housing and Urban Development to implement the mortgage relief program on a national or on a regional basis. Although during the hearings on the original bill Senators would, from time to time, point to particular areas of the country as examples for the need for such a program, nevertheless, there is no clear indication that they intended for HUD to forge the program on a regional basis. When the original bill was introduced it contained a provision which gave the Secretary of HUD discretionary authority to implement the program in any area which the Secretary found to have high unemployment. However, when the final version of the bill was passed this provision was omitted.

Since the legislative history of Title I does not provide clear guidelines, the Department of Housing and Urban Development has considered implementing either a set of regional measures to activate the standby authority on a regional basis, or a single national measure to activate the authority nationally. Given the concern expressed by several members of Congress over the regional pattern of foreclosures, a detailed study was conducted of the possibility of developing regional measures of delinquencies and foreclosures. As a result of the study, it was decided that several fundamental difficulties preclude the use of regional measures. The standby authority will therefore be activated on a national basis. The major reasons for choosing a national system in preference to regional systems fall into three main categories:

(1) equity considerations;

(2) data limitations;

(3) problems associated with local laws and practices which would not arise under a national system.

B. *Equity.*

The first consideration is equity. A national program would allow all qualified homeowners to be eligible for mortgage relief insurance or advances and would appear to be preferable, from an equity standpoint. Since the problem which Title I addresses—the severe economic recession—is a national problem, one which has had an impact on all American families, a national approach to its implementation would seem to be the appropriate choice.

From the standpoint of the mortgagor or the mortgagee, any program which was geared to local conditions would tend to favor one group over another, merely on the basis of the geographic location of the mortgaged property.

In the case of financial institutions which lend only in the local area, certain institutions in one area would have a portion of their loans in default brought current, while others in other areas would not be afforded the benefits of the federal program. In this case, the Federal Government would by fiat be providing a subsidy which would give a competitive advantage to one institution over another purely on the basis of location.

On the other hand, large lenders which hold loans on properties all over the nation would be placed in a situation where some of their loans would be eligible for relief assistance while still others would not even though the economic situation of the various mortgagors was identical. This type of situation could raise problems for supervisory and regulatory authorities who are called on under Title I to do what they can to encourage forbearance, since they would have to treat loans with similar default circumstances differently, with respect to bad debt reserves, despite the fact they were in the same portfolio.

C. *Data Limitations.*

There are at present a number of data series which adequately measure delinquency and foreclosure rates on a national basis. Therefore, a national standard can be developed with a minimum of difficulty.

While some of these same data series also provide a regional break down, there are serious problems with the regional data. For example, while the Federal Home Loan Bank Board series on loan delinquencies is considered quite adequate in measuring changes on a national basis, the data is much lower in quality on a regional basis, and the FHLBB staff is reluctant to release regional data. The troubles associated with the FHLBB data arise from reporting difficulties. The FHLBB has experienced problems in getting some associations to provide loan delinquency data on a regular basis. While the magnitude of the problem is not sufficient to seriously affect the quality of the national data, it has caused quality control problems on the local basis. Also, with respect to the Mortgage Bankers Association data, there is a heavy concentration of member reporting firms located in the south, southwest and in California. Data collected for other areas of the nation are based on such small samples that the regional data has to be considered suspect.

Since satisfactory data of a regional nature are not currently available, the Department of Housing and Urban Development, along with other federal agencies, would be forced to collect such data if it was decided to activate Title I on a regional basis. However, if such a decision was made, the delay in implementing Title I could be as long as 18 months. (In order to form an adequate regional data base, survey forms would have to be developed, sample groups selected, respondents contacted, and enough data would have to be compiled so that at least year-to-year comparisons could be made.) Since Congress clearly did not intend for HUD to delay implementation of Title I for up to a year and a half, prompt implementation requires that the program be based on a single national measure. Of course, one possible alternative which might be considered would be to establish a temporary mortgage relief program on a national basis, and then convert to a regional basis once adequate data become available. However, the

emergency program would expire before the regional data became available.

D. *Problems on the Local Level.*

Local laws and practices relating to delinquencies and foreclosures could adversely affect the ability of HUD to properly monitor and administer a mortgage relief program on the local level. One such problem involves the redemption laws of various states as they affect foreclosure rates. In certain states such as Texas, a lender can take possession of the property within a matter of days following foreclosure. However, in other states such as Illinois, lenders are prohibited from disposing of a property once the legal foreclosure procedures have been completed for up to one year. Under such circumstances it might be difficult for homeowners in states such as Texas to be eligible under a regional program because foreclosure rates would always be relatively low. On the other hand, a regional program started up in Illinois might run on indefinitely because foreclosure rates would always be above the national average. Problems such as these could be solved by establishing separate indexes for every area of the country, with different values for activating Title I, but this would generate administrative problems and require a very large staff to oversee.

Another problem of a local nature relates to the possibility of collusion among local lenders. It is hard to imagine that a conspiracy among lenders would be possible on a national basis, but local lenders could, depending on the size and financial concentration within the local area, act in concert with one another in such a way as to cause the mortgage relief program to be implemented or to forestall its suspension.

E. *Summary.*

The problems associated with regional delinquency and foreclosure data, local conditions and laws as well as equity considerations all argue strongly for a single national standard to be adopted in conjunction with the implementation of Title I of the "Emergency Housing Act of 1975." Under such a program all homeowners in similar economic situations would be treated alike, the program could be implemented with a minimum of delay and local conditions would not allowed to unjustly impact on the operations of the program.

ACTIVATING THE STANDBY AUTHORITY

The Delinquency/Foreclosure Index developed by the Department of Housing and Urban Development can be calculated only back to 1969, but additional indices have been calculated using all available data back to 1965 and, with less precision, to 1960. These longer term indices correlate highly with the Delinquency/Foreclosure Index so that the probable index numbers can be approximated back to 1960. Using this information, it is possible to see what values of the indices would have been reached in past recessions.

For the last three recessions, these peak values are:

	1969-1	1970-1	1974-5
Delinquency index.....	1.18	0.99	1.10

In the 1960 recession, the delinquency index peak was reached in the first quarter of 1963, after the trough of the general recession; however, the delinquency index was above 1.10 almost continuously from the beginning of 1961 to the beginning of 1964, falling below 1.10 only twice in 13 quarters.

The index peaked again in the fourth quarter of 1971. The high for the 1974–1975 recession was reached in the first quarter of 1975. The preliminary index for the second quarter, based on the data now available to HUD is also 1.10.

As reported in Section 2700.10(b) of the regulations to implement Title I, the index level which would indicate that an emergency level of delinquencies has been reached, has been set at 1.20. This level is slightly above the peak levels reached and sustained during the 1961–1964 period. The level may be changed if consultations with regulatory institutions and other interested parties suggest that it is inappropriate, or if improved data series can be developed.

Issued at Washington, D.C. October 1, 1975.

CARLA A. HILLS,
Secretary of Housing and Urban Development.

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THURSDAY, OCTOBER 9, 1975

PART VI:

ENVIRONMENTAL PROTECTION AGENCY

■

NEW SOURCE NPDES PERMITS

Preparation of
Environmental Impact Statements

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 6]

[FRL 349-7]

NEW SOURCE NPDES PERMITS

Preparation of Environmental Impact Statements

The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., implemented by Executive Order 11514 of March 5, 1970, and the Council on Environmental Quality's (CEQ's) Guidelines of August 1, 1973, requires that all agencies of the Federal Government prepare detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The objective of the Act is to build into the agency decision-making process an appropriate and careful consideration of all environmental aspects of proposed actions, explain potential environmental effects of proposed actions and their alternatives for public understanding, avoid or minimize adverse effects of proposed actions and restore or enhance environmental quality as much as possible.

Section 511(c)(1) of the Federal Water Pollution Control Act as amended (FWPCA) (Pub. L. 92-500) requires that NEPA apply to the issuance of a permit under section 402 of FWPCA for the discharge of any pollutant by a new source as defined in section 306 of FWPCA. The discharge of a pollutant, as defined in section 502(12) of FWPCA, means an addition of any pollutant to navigable waters, the contiguous zone, or the ocean from any point source.

This proposed regulation provides procedures for applying NEPA to the issuance of new source National Pollutant Discharge Elimination System (NPDES) permits as authorized by § 301 and § 402 of the Federal Water Pollution Control Act as amended. This regulation shall apply only to the issuance of a new source NPDES permit by the U.S. Environmental Protection Agency and not to the issuance of a new source NPDES permit from any State which has an approved NPDES program in accordance with section 402(b) of FWPCA. The regulation, when used in conjunction with the references to 40 CFR Part 125 (the National Pollutant Discharge Elimination System (NPDES)), provides the EPA procedures for processing new source NPDES permit applications. A final regulation will be published after receipt and consideration of the comments. Upon the date of promulgation of this regulation in final form, the FEDERAL REGISTER notice of September 30, 1974, "Requirements for Environmental Assessments" shall no longer be effective. This notice requested that potential new source applicants request a pre-application conference with the appropriate Regional Administrator twenty-four (24) months prior to discharge.

The new source NPDES regulation is published separately from the regulation applying NEPA to EPA's nonregulatory programs which was promulgated in final form in the FEDERAL REGISTER (40 FR 16814) on April 14, 1975. EPA also issued a separate notice in the October 21, 1974, FEDERAL REGISTER (39 FR 37419) which gave Agency procedures for voluntarily preparing EIS's on certain other EPA regulatory activities.

The Environmental Protection Agency invites all interested persons who desire to submit written comments or suggestions concerning the preparation of final regulations to do so in triplicate to the Office of Federal Activities, (A-104), Environmental Protection Agency, Washington, D.C. 20460. Such submissions should be received not later than November 24, 1975, to allow time for appropriate consideration. Copies of the submissions will be available for inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460.

In consideration of the foregoing, it is proposed to amend Chapter I of Title 40 of the Code of Federal Regulations by adding a new Subpart I to Part 6 as set forth below.

Dated: October 1, 1975.

JOHN QUARLES,
Acting Administrator.

Subpart I—Preparation of Environmental Impact Statements on New Source NPDES Permits

Sec.

6.900 Purpose and policy.
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6.922 Availability of documents.
6.924 Content of an environmental impact statement.

EXHIBITS

1. (a) Notice of Intent Transmittal Memorandum—Suggested Format. (b) Notice of Intent—Suggested Format.
2. Negative Declaration—Suggested Format.
3. Environmental Impact Appraisal—Suggested Format.
4. Cover Sheet for Environmental Impact Statements.
5. Summary Sheet Format for Environmental Impact Statements.
6. Public Notice and News Release—Suggested Format.
Appendix A—Guidance on Determining a New Source.
Appendix B—Document Distribution and Availability Procedures.

AUTHORITY: Sec. 102, 103, 83 Stat. 854 (The National Environmental Policy Act of 1969); Sec. 301, 306, 402, 86 Stat. 816 et seq., (The Federal Water Pollution Control Act as amended).

§ 6.900 Purpose and policy.

(a) The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., implemented by Executive Order 11514 and the Council on Environmental Quality's (CEQ's) Guidelines (40 CFR 1500) requires that all agencies of the Federal Government prepare detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The objective of NEPA is to include in the agency decision-making process appropriate and careful consideration of all environmental effects of proposed actions, explain potential environmental effects of proposed actions and their alternatives for public understanding, avoid or minimize adverse effects of proposed actions and restore or enhance environmental quality as much as possible.

(b) This part provides procedures for compliance with NEPA in the issuance of new source National Pollutant Discharge Elimination System (NPDES) discharge permits as authorized by section 301 and section 402 of the Federal Water Pollution Control Act as amended, (FWPCA) (33 U.S.C. 1151 et seq.).

(c) All references in this part to Part 125 shall mean Part 125 of Title 40 of the Code of Federal Regulations (CFR).

(d) EPA hereby reserves all odd numbers beginning with § 6.901 et seq. for future modifications and additions.

§ 6.902 Definitions.

(a) The abbreviated term "EPA" means the United States Environmental Protection Agency.

(b) The term "Source," as defined in section 306(a)(3) of FWPCA, means "any building, structure, facility or installation from which there is or may be the discharge of pollutants."

(c) The term "New Source," as defined in section 306(a)(2) of FWPCA, means "any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance under this section which will be applicable to such source, if such standard is thereafter promulgated in accordance with this section." (See Appendix A for guidance.)

(d) The term "Construction," as defined in section 306(a)(5) of FWPCA, means "any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises."

(e) The term "Administrative Action" means the issuance by EPA of an NPDES permit to discharge as a new source.

(f) "Responsible Official" means the Regional Administrator of EPA or his designee.

(g) The term "Environmental Assessment" means the report prepared by the applicant for an NPDES permit to discharge as a new source which identifies and analyzes the environmental impacts of the applicant's proposed source and feasible alternatives as provided in § 6.908 of this part.

(h) The term "Environmental Review" means the formal evaluation undertaken by EPA to determine whether a proposed administrative action will be a major

Federal action significantly affecting the quality of the human environment.

(i) The term "Environmental Impacts" shall refer to both the adverse and the beneficial impacts associated with a new source.

(j) The term "Notice of Intent" means the written announcement to Federal, State, and local agencies, and to interested persons, that a draft environmental impact statement will be prepared. The notice shall briefly describe the EPA action, its location, and the issues involved. (Exhibit 1.) The purpose of a notice of intent is to involve other government agencies and interested persons as early as possible in the planning and evaluation of actions which may have significant environmental impacts. This notice should encourage public input in the preparation of a draft EIS and assure that environmental values will be identified and weighed from the outset, rather than accommodated by adjustments at the end of the decisionmaking process.

(k) The term "Draft Environmental Impact Statement" means the document, prepared by EPA, which attempts to identify and analyze the environmental impacts of a proposed EPA action and feasible alternatives, and is circulated for public comment prior to preparation of the final environmental impact statement.

(l) The term "Final Environmental Impact Statement" means the document prepared by EPA which identifies and analyzes in detail the environmental impacts of a proposed EPA action and incorporates comments made on the draft EIS.

(m) The term "Negative Declaration" means the written announcement, prepared subsequent to the environmental review, which states that EPA has decided not to prepare a draft environmental impact statement. The negative declaration shall describe the proposed project, its location, any potential primary and secondary impacts of the project, and the procedures whereby interested persons may comment on the decision not to prepare an EIS. (Exhibit 2)

(n) The term "Environmental Impact Appraisal" means a document, based on the environmental review, which supports a negative declaration. (Exhibit 3)

(o) The term "New Source and Environmental Questionnaire" means a document which EPA furnishes to a potential new source applicant to obtain information on the status and potential impact of the proposed source.

(p) The term "Interested Persons" means any individuals, Federal or State agencies, conservation groups, organizations, corporations, or other nongovernmental units, including any applicant for a new source NPDES permit, issued by the U.S. Environmental Protection Agency, who may be interested in, affected by, or technically competent to comment on the environmental impact of the proposed action.

(q) The term "Potential New Source Applicant" means the prospective owner or operator of an anticipated point source, as defined in section 502(14) of the FWPCA, who arguably falls within a proposed standard of performance category.

§ 6.904 Administrative activity subject to this part.

(a) This part shall apply solely to the issuance of a new source NPDES permit by the EPA with the following exceptions:

(1) These detailed procedures shall not apply to the issuance of a new source NPDES permit to a Federal facility, as defined in Executive Order 11752 of December 18, 1973. The official of any Federal agency making application for an EPA new source NPDES permit shall be responsible for determining whether the Agency's proposed activity necessitating the permit will constitute a major Federal action significantly affecting the quality of the human environment in accordance with its own regulations. Documentation of the Federal agency's determination shall be communicated to EPA prior to EPA's public notice of the issuance of a permit under 40 CFR 125.32.

(2) These detailed procedures shall not apply where another Federal agency has agreed to be "lead agency" or has been designated by the Council on Environmental Quality (CEQ) to be "lead agency" in accordance with the CEQ Guidelines, 40 CFR 1500.7(b). These procedures shall be supplemented by the provisions of an interagency agreement which has been established between EPA and any other Federal agency, or agencies, to designate "lead" and "nonlead" agency responsibilities in the preparation of an environmental impact statement. Prior to the establishment of a lead agency agreement, EPA will assume responsibility for consulting with those Federal agencies that are also responsible for performing a NEPA review on their own Federal actions affecting an applicant who has been determined by EPA to be a new source in order to determine which agency shall be "lead agency."

§ 6.906 New source determination procedures.

(a) Any person who may require an NPDES permit under the FWPCA shall so notify the EPA responsible official having jurisdiction over the area in which the discharge is proposed to be located.

(b) The responsible official, upon receipt of such notice or of his own accord, shall provide any potential new source applicant with the new source and environmental questionnaire (NS/EQ).

(c) The potential new source applicant shall return the completed NS/EQ at least 9 months prior to commencement of construction of the facility, as defined in § 306 of the FWPCA. (It is to the applicant's advantage to return the questionnaire as early as possible, so that if the facility is determined to be a new source, and therefore subject to an environmental review, construction will not be unnecessarily delayed pending completion of the environmental review.)

(d) Upon receipt of the NS/EQ, the responsible official shall make an initial determination of whether the facility is a "new source" (see Appendix A for guidance) unless there is insufficient information to make this determination.

(e) If additional information is needed to make the initial new source determination, the responsible official shall obtain such additional information. The applicant shall provide additional information as requested by the responsible official. The applicant may request confidential treatment of such information in accordance with procedures in 40 CFR 125.37.

(f) If the facility is initially determined to be an existing source, the responsible official shall:

(1) Notify the applicant of this initial determination and of his right to have the initial determination reconsidered at an adjudicatory hearing held pursuant to 40 CFR 125.36.

(2) Provide the applicant with an application for a permit to discharge as an existing source.

(3) Notify the public of such decision no later than the public notice of the issuance of a permit pursuant to 40 CFR 125.32.

(g) If the facility is initially determined to be a new source, the responsible official shall:

(1) Notify the applicant of this initial determination and of his right to have the initial determination reconsidered at an adjudicatory hearing held pursuant to 40 CFR 125.36.

(2) Provide the applicant with an application for a permit to discharge as a new source.

(3) Notify the public of such decision no later than the public notice of the issuance of a permit pursuant to 40 CFR 125.32.

(4) Notify the applicant that he must submit an adequate environmental assessment unless the responsible official determines that the new source and environmental questionnaire is an adequate environmental assessment. A suggested format for the contents of the environmental assessment is found in § 6.924(c) of this Part.

(h) If the applicant or any interested person, within 20 days of the date of mailing the notice of initial determination, requests an adjudicatory hearing, the responsible official shall act upon the request for the adjudicatory hearing in accordance with procedures prescribed in 40 CFR 125.36.

(i) If no hearing is requested in accordance with (h) above, the initial new source determination of the responsible official shall become the final new source determination of EPA.

§ 6.908 Procedures for environmental review.

(a) If EPA's final new source determination under § 6.906 is that the facility is a new source, the responsible official shall conduct the environmental review to determine whether the issuance of the permit is likely to have significant impact on the quality of the human environment, whether any feasible alterna-

tives can be adopted or changes can be made in project design to eliminate or minimize significant adverse impacts, and whether an EIS or a negative declaration is required.

(b) The responsible official shall base his decision on the need for preparing an EIS on the guidelines in § 6.910 of this Part.

(c) The responsible official may require that the applicant submit environmental assessment information in addition to the NS/EQ containing the additional information that the responsible official deems necessary to conduct the environmental review. The responsible official shall determine the proper scope of the environmental review and the applicant's environmental assessment and shall specify to the applicant what information is required. In determining the scope of the environmental assessment, the responsible official shall consider the size of the new source, the potential environmental impacts of the new source, and the extent to which the applicant or his designee is capable of providing the required information. The responsible official shall not require the applicant to gather raw data or to perform analyses either of which duplicate existing data or the results of existing analyses available to EPA. The responsible official shall keep requests for data to a minimum consistent with his responsibilities under NEPA.

(d) If the environmental review reveals that the preparation of an environmental impact statement is required, the responsible official may require reports, data and other information for the EIS to be compiled by the applicant or a third party under contract with the applicant and furnished directly to the responsible official. In all cases, the responsible official shall specify the type of information to be developed and shall maintain control of the information throughout the gathering and presentation of this information. The responsible official shall keep requests for data to a minimum consistent with his responsibilities under NEPA. When the third party approach is taken, the responsible official shall approve the selection of this third party-contractor after consulting with interested Federal, State, and local agencies, public interest groups, and members of the general public as he deems appropriate to assure objectivity in this selection.

(e) Upon completion of the environmental review, the responsible official shall make known his determination regarding the need for a draft EIS. If a draft EIS is to be prepared and circulated, the responsible official shall issue a notice of intent (Exhibit 1); if the determination is made not to prepare a draft EIS, the responsible official shall issue a negative declaration (Exhibit 2).

(1) Such notice of intent shall be issued prior to the public notice of the issuance of a permit under 40 CFR 125.32. Such negative declaration shall be issued prior to or simultaneously with the public notice of the issuance of a permit under 40 CFR 125.32.

(2) Such notice of intent or negative declaration shall be distributed in accordance with procedures described in 40 CFR 125.32(a). Potentially appropriate agencies referred to in 40 CFR 125.32 (a) are found in the Council on Environmental Quality's Guidelines, 40 CFR 1500, Appendices II and III. Additional distribution procedures are provided in Appendix B.

(3) Any negative declaration shall state that interested persons wishing to comment on the decision may submit comments for consideration by the responsible official.

(4) For any negative declaration, the responsible official shall prepare an environmental impact appraisal which states EPA's reasons for concluding that there will be no significant impact resulting from the issuance of the applicable new source NPDES permit or that significant adverse impacts have been mitigated by making changes in the proposed new source. (Exhibit 3). This document shall briefly describe the proposed action and feasible alternatives, environmental impacts of the proposed new source, steps to minimize harm to the environment, the relationship between short term uses of man's environment and the maintenance and enhancement of long term beneficial uses, the irreversible and irretrievable commitments of resources for the new source, comments and consultations on the new source and reasons for concluding there will be no significant adverse impacts. The environmental impact appraisal shall be available for public inspection at the time of the issuance of the negative declaration and shall remain with the internal records of the permit.

§ 6.910 Guidelines for determining whether to prepare an EIS.

The following guidelines shall be used when performing the environmental review:

(a) *General guidelines.* (1) When determining the significance of a proposed new source's impact, the responsible official shall consider both its short term and long term effects as well as its primary and secondary effects as defined in § 6.924(c). However, EIS's should be prepared first on those proposed actions with the most adverse effects which are scheduled for earliest implementation and on other proposed actions according to priorities assigned by the responsible official.

(2) If EPA is proposing to issue a number of minor, environmentally insignificant new source NPDES permits, during a limited time span and in the same general geographic area the responsible official may determine that the cumulative impact of the issuance of all these permits may have a significant environmental effect.

(3) In determining the significance of a proposed new source NPDES permit, the unique characteristics of the new source area should be carefully considered. For example, proximity to historic sites, parklands, wetlands or wild and scenic rivers may make the impact significant.

(b) *Specific criteria.* An EIS will be prepared when: (1) The new source will induce or accelerate significant changes in industrial, commercial, agricultural, or residential land use concentrations or distributions which have the potential for significant environmental effects. Factors that should be considered in determining if these changes are environmentally significant include but are not limited to: the nature and extent of the vacant land subject to increased development pressure as a result of the new source; the increases in population or population density which may be induced and the ramifications of such changes; the nature of land use regulations in the affected area and their potential effects on development and the environment; and the changes in the availability or demand for energy and the resulting environmental consequences.

(2) The new source may directly or through induced development have a significant adverse effect upon local ambient air quality, local ambient noise levels, surface or groundwater quality or quantity, fish, wildlife, and their natural habitats.

(3) Any major part of the new source will be located on wetlands or will have significant adverse effects on wetlands, including secondary effects.

(4) Any major part of the new source will be located on or significantly affect the habitat of threatened or endangered species on the Department of Interior's lists of threatened and endangered species.

(5) The environmental impact of the issuance of new source NPDES permit is likely to be highly controversial.

(6) The environmental impact of the issuance of a new source NPDES permit will have significant direct and adverse effect on a property listed in or eligible for listing in the National Register of Historic Places or will cause irreparable loss or destruction of significant scientific, prehistoric, historic or archaeological data.

§ 6.912 Draft environmental impact statement.

(a) The responsible official shall assure that a draft environmental impact statement is prepared as soon as practicable after the release of the notice of intent. The draft EIS shall be published not later than the publication of public notice of the issuance of a permit pursuant to 40 CFR 125.32.

(b) The content of the draft EIS shall be as specified according to § 6.924 of this Part.

(c) The specific procedures that should be taken with respect to distribution and availability of the draft EIS's are listed in Appendix B.

(d) Parties who wish to comment have at least forty-five (45) days to reply after the date of publication in the FEDERAL REGISTER of the listing of the draft EIS by CEQ.

§ 6.914 Public hearing.

(a) If there is a significant degree of public interest, the responsible official may convene a public hearing after publication and circulation of the draft EIS. He shall issue public notice of such hearing in accordance with 40 CFR 125.32(d). The public hearing shall be conducted in accordance with 40 CFR 125.34.

(b) In addition to the procedures provided in § 6.914(a), the following shall also apply:

(1) If the responsible official determines, prior to publication and distribution of the draft EIS, that a public hearing shall be held, he shall place such notice of such hearing in the draft EIS following the summary sheet.

(2) A written record of the hearing shall be made. As a minimum, the record shall contain a list of witnesses together with the text of each presentation. A summary of the record including the issues raised, conflicts resolved and any other significant portions of the record shall be appended to the final EIS.

§ 6.916 Final environmental impact statement.

(a) The responsible official shall prepare a final environmental impact statement, which shall contain responses to substantive comments received on the draft EIS, a summary of the record of any public hearing, and any other relevant information.

(b) The final EIS shall be published not later than the responsible official's determination containing the proposed permit pursuant to 40 CFR 125.35.

(c) The final EIS shall include the responsible official's recommendation on whether the permit is to be issued or denied.

(1) If the recommendation is to deny the permit, the final EIS shall contain the reason(s) for such a recommendation and the measures that EPA recommends the applicant take in order to receive a permit.

(2) If the recommendation is to issue the permit, the final EIS shall, when appropriate, also recommend the actions the permittee shall take to prevent or minimize any adverse environmental impacts identified in the analysis.

(d) The specific procedures that should be followed with respect to the distribution and availability of the final EIS are provided in Appendix B.

(e) In addition to the requirements defined in 40 CFR 125.35, no administrative action shall be taken by EPA until thirty (30) days after the publication of the final EIS and not until a minimum of ninety (90) days after the publication of the draft EIS.

§ 6.918 Decision on the Federal action.

The responsible official may approve or deny the new source NPDES permit following a complete evaluation of any significant beneficial and adverse environmental impacts on the human environment consistent with EPA's legal authority, including, but not limited to the Federal Water Pollution Control Act (33 U.S.C. 1151 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.), Solid Waste Disposal Act (42 U.S.C. 3254 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the 1954 Atomic Energy Act as amended (42 U.S.C. 201 et seq.), and the Safe Drinking Water Act of 1974 (42 U.S.C. 300f).

§ 6.920 Additional procedures.

(a) Historic and archaeological sites. EPA is subject to the requirements of § 106 of the National Historic Preservation Act of 1966, 16 U.S.C. 470 et seq., Executive Order 11593 and the Archaeological and Historic Preservation Act of 1974, 16 U.S.C. 469 et seq., and the regulations promulgated thereunder. These statutes and regulations establish environmental review procedures to follow independently of the requirements of NEPA.

(1) If the new source may affect properties with historic, architectural, archaeological or cultural value which are listed in or eligible for listing in the National Register of Historic Places (published in the FEDERAL REGISTER each February with supplements on the first Tuesday of each month), the responsible official shall comply with the procedures of the Advisory Council on Historic Preservation (36 CFR 800) including determining the need for a memorandum of agreement among EPA, the Advisory Council, and the State Historic Preservation Officer.

(2) Whenever a memorandum of agreement has been executed in accordance with 36 CFR 800, it shall be included in the EIS if one is prepared on that new source NPDES permit. Copies of the draft and final EIS's should be sent to the appropriate State Historic Preservation Officer and the Executive Director of the Advisory Council on Historic Preservation for their comment according to the Advisory Council's procedures (36 CFR 800).

(3) In order to adequately complete his environmental review and his responsibilities under 36 CFR 800, the responsible official may request that the applicant for a new source NPDES permit consult with the State Historic Preservation Officer to determine if the new source will have a significant adverse effect on properties with historic, architectural, archaeological or cultural value which are listed in or eligible for listing in the National Register of Historic Places. If the new source will not have an adverse effect, the applicant may be requested to submit a determination of no-effect in a memorandum to the responsible official in accordance with 36 CFR 800.4(c). If the new source will have an adverse effect, the applicant may be requested by the responsible official to work with the State Historic Preservation Officer to develop alternatives to avoid or mitigate the adverse effect(s). The responsible official may request further assistance of the new source NPDES applicant in order to comply with EPA's requirements under 36 CFR 800 prior to the responsible official's determination containing the proposed permit pursuant to 40 CFR 125.35.

(4) If the new source may cause irreparable loss or destruction of significant scientific, prehistoric, historic or archaeological data, the responsible official shall consult with the Secretary of Interior in compliance with the Archaeological and Historic Preservation Act of 1974, 6 U.S.C. 469.

(b) Wetlands, coastal zones, floodplains, fish and wildlife, threatened and endangered species, and wild and scenic rivers. The following procedures shall be applied to the EPA administrative activities covered by this part that may affect these environmentally sensitive areas.

(1) If the new source may affect wetlands, the responsible official shall consult with the appropriate offices of the Department of the Interior, the Department of Commerce, U.S. Army Corps of Engineers, and the states involved, during the environmental review to determine the probable impact of the new source on the fish and wildlife resources and land use of these areas.

(2) If the new source may affect coastal zones or coastal waters as defined in Title III of the Coastal Zone Management Act of 1972, 16 U.S.C. 1451 et seq., the responsible official shall consult with the appropriate State offices and with the appropriate office of the Department of Commerce during the environmental review to determine the probable impact of the new source on coastal zone or coastal water resources.

(3) If the proposed new source will encourage new industrial, commercial, and residential development in currently undeveloped floodplains which are of significant value for agricultural production, recreation, or wildlife habitat, the responsible official shall act pursuant to Executive Order 11296.

(4) If the new source may affect portions of rivers designated wild and scenic or being considered for this designation under the Wild and Scenic Rivers Act, 16 U.S.C. 28, the responsible official shall consult with appropriate State offices and with the Secretary of the Interior, or where national forest lands are involved, with the Secretary of Agriculture, during the environmental review to determine the probable impact of the new source on eligible rivers or portions thereof.

(5) Whenever the new source will result in the control or structural modification of any stream or other body of water for any purpose, including navigation and drainage, the responsible official shall consult with the United States Fish and Wildlife Service (Department of the Interior), the National Marine Fisheries Service of the National Oceanic and Atmospheric Administration (Department of Commerce), the U.S. Army Corps of Engineers, and the head of the agency administering the wildlife resources of the particular state in which the action will take place, to determine any steps which may be taken to conserve wildlife resources.

(6) If the new source may affect threatened or endangered species, de-

fined under section 4 of the Endangered Species Act of 1973, 16 U.S.C. 35, the responsible official shall consult with the Secretary of the Interior or the Secretary of Commerce according to the procedures of section 7 of that Act.

(7) Requests for consultation and the results of such consultation shall be documented in writing. The agencies should be given thirty (30) days to comment as measured from the date of the written request. If an EIS is to be prepared on a new source and wetlands, coastal zones, floodplains, fish and wildlife, threatened or endangered species or wild and scenic rivers may be affected, the required consultation may be deferred until the preparation of the draft EIS. In all cases where consultation has occurred, the agencies consulted shall receive copies of either the notice of intent and EIS or the negative declaration and environmental appraisal prepared on the proposed action.

§ 6.922 Availability of documents.

(a) EPA will print copies of draft and final EIS's for agency and public distribution. A nominal fee may be charged for copies requested by the public.

(b) When EPA no longer has copies of an EIS to distribute, copies shall be made available for public inspection at regional and headquarters Offices of Public Affairs. Interested persons also should be advised of the availability (at cost) of the EIS from the Environmental Law Institute, 1346 Connecticut Avenue, N.W., Washington, D.C. 20036.

(c) Lists of EIS's prepared or under preparation and lists of negative declarations prepared will be available at both the regional and headquarters Offices of Public Affairs.

§ 6.924 Content of an environmental impact statement.

(a) *Cover sheet.* The cover sheet shall indicate the type of EIS (draft or final), the nature of the proposed EPA action, the name of the permit applicant, the responsible EPA office, the date, and the signature of the responsible official. The format is shown in Exhibit 4.

(b) *Summary sheet.* The summary sheet shall conform to the format prescribed in Appendix I of the August 1, 1973 Council on Environmental Quality's Guidelines (40 CFR 1500). The format is shown in Exhibit 5.

(c) *Body of statement.* The body of the EIS shall identify, develop, and analyze the pertinent issues included in the seven sections below. Each section need not be a separate chapter in the statement. The EIS shall serve as a means for the responsible official and the public to assess the environmental impacts of the proposed issuance of a new source NPDES permit, rather than as a justification for decisions already made. Environmental impact statements should be prepared using a systematic, interdisciplinary approach. Statements should incorporate all relevant analytical disciplines and should provide meaningful and factual data, information, and analyses. The presentation should be simple and concise, yet include all facts necessary to permit independent evaluation and appraisal of the beneficial and adverse environmental effects on the human environment of alternative actions. The amount of detail provided should be commensurate both with the extent and expected impact of the actions, and with the amount of information required at the particular level of decisionmaking. To the extent possible, statements shall not be drafted in a style which requires extensive scientific or technical expertise to comprehend and evaluate the environmental impact of the proposed EPA action.

(1) Background and description of the proposed new source. The EIS shall describe the proposed source, its product or purpose, its location, its construction and operation time schedule. To prevent piecemeal decision making, the new source should be described in as broad a context as necessary. The relationship of the proposed new source project to other projects and proposals directly affected by or stemming from the construction and the operation of the new source shall be discussed, including not only other EPA activities, but also those of other Governmental and private organizations. Development and population trends in the project area and the assumptions on which they are based shall also be included. Maps, photos, and artist sketches should be incorporated if available when they help depict the environmental setting. If not enclosed, supporting documents should be referenced.

(2) Alternatives available to the proposed new source. The feasible alternatives available to the proposed new source shall be described, developed and objectively weighed against the proposed new source. The analysis should be sufficiently detailed to reveal the EPA's comparative evaluation of the environmental impacts on the human environment, costs, and risks of each feasible alternative. The analysis of alternatives shall include the alternative of not constructing or operating the new source or postponing construction or operation. Feasible design, process, and site alternatives must be described. This analysis should be written in such a manner that the general public independently can judge the relative desirability of the various alternatives.

(3) Environmental impacts of the proposed new source. This shall be a description of the primary and secondary environmental impacts, both beneficial and adverse, anticipated from the new source. The scope of the description shall include both short and long-term impacts. Emphasis should be given to discussing those factors most directly impacted by the proposed activity.

(i) Primary impacts are those that can be attributed directly to the construction or operation of the new source.

(ii) Secondary impacts are indirect or induced impacts. Construction of a facility such as a large industrial facility may stimulate or induce secondary effects in the form of associated investments and changed patterns of social and economic activities. Particular attention should be paid to potential changes in population patterns or growth. When such changes are significant, their effect on the resource base, including land use, water quality and quantity and air quality should be determined. A discussion of how these impacts conform or conflict with the objectives and specific terms of approved or proposed Federal, State, and local land use plans, policies, and controls for the area should be included.

(4) Adverse impacts which cannot be avoided should the new source permit be issued. The EIS shall describe the kinds and magnitudes of adverse impacts which cannot be reduced in severity, give the remedial and protective measures which shall be taken, describe the adverse impacts which can be reduced to an acceptable level, and the mitigative measures which should be taken. These adverse impacts may include water or air pollution, undesirable land use patterns, damage to ecological systems, urban congestion, threats to health or other consequences adverse to the environmental goals set out in section 101(b) of the National Environmental Policy Act.

(5) Relationship between local short term uses of the environment and the maintenance and enhancement of long term beneficial uses. This shall be a description of the extent to which the proposed activity involves trade offs between short term environmental gains at the expense of long term losses, or vice-versa, and the extent to which the proposed action forecloses future options. Special attention should be given to effects which narrow the range of beneficial uses of the environment or pose long term risks to health or safety.

(6) Irreversible and irretrievable commitment of resources which would result if a new source permit were issued. This shall be a description of the extent to which the proposed activity curtails the diversity and range of beneficial uses of the environment. Secondary impacts, such as induced growth in undeveloped areas, may make alternative uses of that land impossible. Also, irreversible damage can result from environmental accidents associated with the new source and this possibility should be evaluated.

(7) A discussion of problems and objections raised by other Federal, State, and local agencies and by interested persons in this review process. Final EIS's (and draft EIS's if appropriate) shall summarize the comments and suggestions made by reviewing organizations and shall describe the disposition of issues raised, e.g., changes to the proposed new source to mitigate anticipated impacts or objections. In particular, the EIS shall address any major issues in which the EPA position differs from reviewers' recommendations and objections, giving reasons why specific comments and suggestions could not be adopted. Reviewers' statements should be set forth in a list of "comments" and accompanied by EPA's "responses." In addition, the source of all comments should be clearly identified and copies of the comments (or summaries where

a response has been exceptionally long) should be attached to the final EIS.

(d) *Documentation.* Any books, research reports, field study reports, correspondence and other documents which provided the data base for evaluating the impact of the proposed new source and alternatives discussed in the EIS shall be cited in the body of the EIS and included in a bibliography attached to the EIS.

EXHIBIT 1

NOTICE OF INTENT TRANSMITTAL MEMORANDUM—SUGGESTED FORMAT

(Date)

ENVIRONMENTAL PROTECTION AGENCY,

(Appropriate Office)

(Address, City, State, Zip Code)

To All Interested Government Agencies and Public Groups.

Gentlemen: As required by the EPA regulations, "Preparation of Environmental Impact Statements (EIS's) for New Source NPDES Permits" (40 CFR 6.900), attached is a Notice of Intent to prepare an EIS for the proposed EPA action described below:

(Nature of EPA Action and NPDES Permit Application Number)

(Name of Applicant and Nature of Project)

(City, County, State)

If your organization needs additional information or wishes to participate in the preparation of the draft EIS, please advise the (appropriate office, city, state).

Very truly yours,

(Appropriate EPA Official)

(List Federal, State, and local agencies to be solicited for comment.)

(List public action groups to be solicited for comment.)

NOTICE OF INTENT—SUGGESTED FORMAT

NOTICE OF INTENT—ENVIRONMENTAL PROTECTION AGENCY

1. Proposed EPA Action:

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2. Type of Facility:

---

3. Location of Facility:
City ---
County ---
State ---

4. Issues Involved:

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5. Proposed Starting Date of Discharge:

EXHIBIT 2

NEGATIVE DECLARATION—SUGGESTED FORMAT

NEGATIVE DECLARATION

(Date)

ENVIRONMENTAL PROTECTION AGENCY,

(Appropriate Office)

(Address, City, State, Zip Code)

To All Interested Government Agencies and Public Groups.

Gentlemen: As required by the EPA regulations, "Preparation of Environmental Impact Statements (EIS's) for New Source NPDES Permits" (40 CFR 6.900), an environmental review has been performed on the proposed EPA action below:

(Name of Applicant and Type of Facility)

(Facility Location: City, County, State)

(Nature of EPA Action)

(NPDES Permit Application Number)

Project Description, Originator and Purpose

(Include a map of the project area and a brief narrative describing the primary and secondary impacts of the project, purpose of the project, and other data in support of the negative declaration.)

The review process did not indicate significant environmental impacts would result from the proposed action, or that significant adverse impacts have been mitigated by making changes in the project. Consequently, a preliminary decision not to prepare an EIS has been made.

This action is taken on the basis of a careful review of the environmental assessment, and other supporting data, which are on file in the above office and will be available for public review upon request.

Comments on this decision may be submitted for consideration by EPA. After evaluating the comments received, the Agency will make a final decision on the need for an EIS.

Sincerely,

(Appropriate EPA Official)

EXHIBIT 3

ENVIRONMENTAL IMPACT APPRAISAL—SUGGESTED FORMAT

A. Identity Project:
Name of Applicant---
Type of Facility---
Address ---

B. Summarize Assessment:

1. Brief description of the facility:---

---

2. Probable impact of the issuance of an NPDES New Source permit on the environment: ---

---

---

3. Any probable adverse environmental effects which cannot be avoided:---

---

4. Alternatives considered with evaluation of each:---

---

5. Relationship between local short-term uses of the environment and maintenance and enhancement of long-term beneficial uses: ---

---

---

6. Any irreversible and irretrievable commitment of resources:---

---

7. Public objections to the facility, if any, and their resolution:---

---

8. Agencies consulted about the facility:--

State representative's name---
Local representative's name---
Other ---

C. Reasons for concluding there will be no significant impacts.

(Discuss topics 2, 3, 5, 6, and 7 above, and how the alternative (topic 4) selected is the most appropriate.

(Signature of appropriate official)

(Date)

EXHIBIT 4

COVER SHEET FORMAT FOR ENVIRONMENTAL IMPACT STATEMENTS (DRAFT, FINAL)

Environmental Impact Statement

(Provide Name of Facility and Type of EPA Action)

(Provide Identifying NPDES Permit Application Number)

Prepared by ---
(Responsible Agency Office)

Approved by ---
(Responsible Agency Official)

(Date)

EXHIBIT 5

SUMMARY SHEET FORMAT FOR ENVIRONMENTAL IMPACT STATEMENTS

(Check one)

( ) Draft.
( ) Final.

Environmental Protection Agency

(Responsible Agency Office)

1. Name of action. (Check one)
( ) Administrative action.
( ) Legislative action.

2. Brief description of action indicating what States (and counties) are particularly affected.

3. Summary of environmental impact and adverse environmental effects.

4. List alternatives considered.

5. a. (for draft statements) List all Federal, State, and local agencies from which comments have been requested.

b. (for final statements) List all Federal, State, and local agencies and other sources from which written comments have been received.

6. Dates draft statement and final statement made available to Council on Environmental Quality and public.

EXHIBIT 6

PUBLIC NOTICE AND NEWS RELEASE—SUGGESTED FORMAT

PUBLIC NOTICE

The Environmental Protection Agency (originating office) (will prepare, will not prepare, has prepared) a (draft, final) environmental impact statement on the following project:

(Name of Applicant and Type of Facility)

(Nature of EPA Action)

(Facility Location, City, County, State)

(Where EIS or Negative Declaration can be obtained)

This notice is to implement EPA's policy of encouraging public participation in the decision-making process on proposed EPA actions. Comments on this document may be submitted to (full address of originating office).

APPENDIX A

GUIDANCE ON DETERMINING A NEW SOURCE

(1) A source should be considered a new source provided that at the time of proposal of the applicable new source standard of performance, there has not been any:

(i) Significant site preparation work, such as major clearing or excavation; or

(ii) Placement, assembly, or installation of unique facilities or equipment at the premises where such facilities or equipment will be used; or

(iii) Contractual obligation to purchase such unique facilities or equipment. Facilities and equipment shall include only the major items listed below, provided that the value of such items represents a substantial commitment to construct the facility:

(a) structures; or
(b) structural materials; or
(c) machinery; or
(d) process equipment; or
(e) construction equipment.

(iv) Contractual obligation with a firm to design, engineer and erect a completed facility (i.e., a "turnkey" plant).

(2) Modifications to existing sources will be controlled through the permit modification procedures. A new source is a totally new source (i.e., all of which has yet to be constructed), or a major alteration to an existing source. A major alteration will be considered a new source if the alteration is of such magnitude to, in effect, create a new facility. In making such a determination, the responsible official shall find that the permit modification procedures are not appropriate and shall consider, among other relevant factors, whether as a result of the alteration, the source can reasonably achieve the standard of performance. (Only those portions of a facility determined to be a new source shall be required to achieve the Standard of Performance promulgated under Section 306 of the FWPCA.)

Appendix B

Document Distribution and Availability Procedures

I. Distribution of Documents—Suggested Guidance

(a) The responsible official should distribute notices of intent and negative declarations according to procedures listed in 40 CFR 125.32(a) and as follows:

(1) The Office of Federal Activities (one copy).
(2) The Office of Public Affairs (one copy).
(3) The Office of Legislation (one copy).
(4) The Office of Enforcement (one copy).
(5) A brief news release may be submitted to a local newspaper, which has adequate circulation to cover the area that will be affected by the proposed facility, informing the public that an impact statement will be or will not be prepared on a particular project and that the agency is requesting public comment (see Exhibit 3).

(b) Draft environmental impact statements. The specific procedures that should be taken with respect to draft environmental impact statements are as follows:

(1) Before transmitting the draft statement to the Council on Environmental Quality, the responsible official should:

(i) Notify by phone the Office of Federal Activities (OFA) that the draft impact statement has been prepared.

(ii) Send two (2) copies of the draft statement to the Office of Federal Activities (OFA) for their review and comment. OFA may seek assistance from other Agency components to provide their review and comment on all or individual environmental impact statements.

(2) If neither OFA nor one of the offices requested by OFA for comment requests any changes within a ten (10) working day period after notification, the responsible official should:

(i) Send five (5) copies of the draft environmental impact statement to the Council on Environmental Quality.

(ii) Inform the Office of Public Affairs of the transmittal to the Council on Environmental Quality and the plans for local press release.

(iii) Notify the Office of Legislation of the transmittal.

(3) The responsible official should provide copies of the draft statement to:

(i) The appropriate offices of reviewing Federal agencies that have special expertise or jurisdiction by law with respect to any environmental impacts. The Council on Environmental Quality's Guidelines (40 CFR 1500.9 and Appendices II and III thereof) list those potential agencies to which draft EIS's may be sent for official review and comment. Two (2) copies of the impact statement should be provided each agency unless they have made a specific request for more copies. The agencies are expected to reply directly to the originating EPA office. Commenting agencies shall have at least forty-five (45) calendar days to reply (the reply period shall commence from the date of publication in the Federal Register of lists of statements received by the Council on Environmental Quality); thereafter, it should be presumed that, unless a time extension has been requested, the agency has no comment to make. EPA may grant extensions where practical of fifteen (15) or more calendar days.

(ii) The Office of Legislation if they request copies (two copies).

(iii) The Office of Public Affairs (two copies).

(iv) The Office of Enforcement (two copies).

(v) The Office of Federal Activities (two copies).

(4) The appropriate State and local agencies and to the appropriate State and metropolitan clearinghouses. The time limits for review and extensions should be the same as those available to Federal agencies.

(5) Interested persons and public libraries. The time limits for review and extensions should be the same as those available to Federal agencies.

(c) The responsible official should submit to the local newspapers and other appropriate media a news release (see Exhibit 6 of this Part) that the draft statement is available for comment and where copies may be obtained.

(d) Final environmental impact statements. Distribution and other specific actions will be as specified for draft statements. In the case of Federal and State agencies and interested persons, only those who made substantive comments on the draft statement or request a copy of the final statement should be sent a copy. The applicant should be sent a copy. Where the number of comments on the draft statement is such that distribution of the final statement to all commenting entities appears impracticable, the responsible official preparing the statement should consult with the OFA, who will discuss with the Council on Environmental Quality alternative arrangements for distribution of the statement.

II. Availability of Documents

Draft and final EIS's, negative declarations and environmental impact appraisals should be made available for public review at the following locations:

(1) The originating office; (2) Public libraries within the project area. Post offices, city halls or courthouses may be used as distribution points if public library facilities are not available; (3) The Office of Public Affairs for draft and final EIS's only.

[FR Doc.75-26945 Filed 10-8-75;8:45 am]

federal register

THURSDAY, OCTOBER 9, 1975

PART VII:

DEPARTMENT OF LABOR

Office of the Secretary

■

SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Indian Manpower Programs; Allowable Federal Costs

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Subpart B—Indian Manpower Programs

On June 26, 1974, the Department of Labor published regulations in the FEDERAL REGISTER (39 FR 23158) implementing Title III Section 302—Indian Manpower Programs under the Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839); (Pub. L. 93-567, 88 Stat. 1845) hereinafter referred to as the Act. At that time, the Department invited interested persons to submit comments on the regulations, and stated that comments received by August 12, 1974, would be evaluated to determine whether the regulations should, in any respect, be amended.

Numerous comments were received by the Department pursuant to this invitation. As a result of these comments the Department has decided to revise the regulations. These revised regulations, since they are the result of such comments, and since they are basically the same as the 1974 regulations, shall become effective upon publication.

The Department is also publishing, elsewhere in today's FEDERAL REGISTER, three proposed regulatory amendments to § 97.161, *Allowable Federal costs*, under this Subpart. The three proposed regulations are based upon the Department's experience in administering the Indian Manpower Program during the past year.

This document is essentially similar to the regulations published in the FEDERAL REGISTER (39 FR 23158) on June 26, 1974, however, programmatic changes have been made to reflect the experience gained in the first year of implementation. In addition, appropriate changes have been made to reflect the amendments to the Act made by Title I of the Emergency Jobs and Unemployment Assistance Act of 1974 (hereinafter referred to as the "Emergency Jobs Act") (Public Law 93-567, 88 Stat. 1845). Title I of the Emergency Jobs Act amended the Comprehensive Employment and Training Act by inserting a new Title VI and redesignating the existing Title VI, and all references thereto, as Title VII, and by redesignating sections 601 through 615 of the Act, and all references thereto, as sections 701 through 715, respectively.

The amendments, made by this revision, are as follows:

In § 97.103, *Definitions*, the definition of "Area of substantial unemployment" is amended to show that the unemployment defined is among Indians only and does not apply to non-Indians in the affected area.

A definition of the word "audit" has been added.

A definition of the term "audit standards" has been added.

The definition of "dependent" has been clarified.

A definition of "disabled veterans" has been added.

A definition of "family" has been added.

A definition of "Federal Audits" has been added.

A definition of "FMC" has been added; it means Federal Management Circular.

A definition of "head of family" has been added.

The definition for "native village" has been broadened by adding the phrase "or which meets the requirements of that Act."

The definition of "placement" has been changed by deleting the concept of "self-placement."

A definition of "prime sponsor allotment" has been added.

The definition of "public service employment" has been expanded to include child care as a type of work which may be performed and to specify that part-time work may be allowed for certain individuals.

The definition of "underemployed person" has been changed to delete the words "receiving wages" and insert in their place the words "whose salary relative to his or her family size is . . ."

The definition of "unemployment compensation" has been amended to make it consistent with the definition of that term in 29 CFR Part 94.

In § 97.104, *Eligibility for funds; allocation of funds*, paragraph (b)(3)(ii), the sentence, "To the extent feasible, such designated prime sponsor will meet with the approval of the eligible participants to be served," has been added to make the extent of the Secretary's search for alternative sponsors for services to Indian or Alaskan native entities consistent with the extent of the search indicated in Section 302(d) of the Act.

Former § 97.104(a)(3)(iii), now § 97.104(b)(3)(iii), has been rewritten to make it clearer and to indicate that, if the Secretary "designates" a prime sponsor to operate a Section 302 program, he will seek from the affected Indian or Alaskan native entities their approval of the designated prime sponsor.

Section 97.104(c), *Data to support formula allocation factors*, has been added.

Section 97.104(b)(3), *Unobligated funds*, has been redesignated § 97.104(d) and has been amended to give preference to Section 302 prime sponsors in making a final decision on the reallocation of unobligated funds to other prime sponsors in the State or designated area for which the funds are obtained. Section 97.104(b)(4), *Publication of allocations*, has been redesignated § 97.104(e).

In § 97.111, *Notification of intent to apply for prime sponsorship; consortium agreements*, paragraph (a) has been amended to show that notices of intent should be postmarked by March 1.

Section 97.111(e) has been rewritten to simplify the process for consortia agreements after the first year of operation.

Section 97.111(f) has been added to indicate several new notices of intent requirements, including the submission by a prospective prime sponsor of Qualifications Support Documentation.

In § 97.113, *Planning process; advisory councils*, paragraph (b), formerly paragraph (a), has been changed to read a prime sponsor shall utilize a planning council instead of a prime sponsor may utilize such a council, thus emphasizing the importance of these councils. Paragraph (b), *Planning process*, has also been changed to indicate that the prime sponsor shall make public its plan at the same time it is submitted to the Secretary for approval.

Section 97.113(c)(1) now requires designated prime sponsors to establish a planning council.

Section 97.113(c)(2) includes new language to further define the council's role.

Section 97.114(b)(2) has been rewritten to delete paragraph (ii), *Program Transition Schedule*, and to renumber the subsequent paragraph accordingly. Also paragraph (b)(2)(v), *Assurances and Certifications*, has been expanded to include additional items.

In § 97.117 several standards have been added in paragraph (b). In paragraph (b)(8), the words, "of non-PSE activities," have been inserted following the word "cost," and a new sentence has been added limiting administrative costs for PSE to not more than ten percent of the funds set aside for PSE.

In § 97.120, *Use of alternative prime sponsors; services by the Secretary*, an amendment has been made to show a preference for other Section 302 prime sponsors if the Secretary designates an alternate prime sponsor.

In § 97.121, *Modification of grant agreement*, paragraph (a) has been added to provide that changes to the Program Planning Summary and/or narrative summary must be reported by a new grant signature sheet. Paragraph (d) has been added to clarify the requirement of grant modification when total allotment changes.

In § 97.122, *Modification of Comprehensive Manpower Plan*, paragraph (a), *General*, the word "two" has been changed to "three," and changes in the "narrative" have been added as a reason for modification of the grant.

Paragraph (d), *Narrative modification*, has been added to indicate in broad terms the kinds of changes in the narrative which must be preceded by a formal modification.

A new paragraph (f) has been added to require that prime sponsors notify the Division of Indian Manpower Programs whenever there is a change in project leadership, address, name or other significant information.

Section 97.132 has been revised to add new requirements with respect to veterans, to provide that the prime sponsor shall have the final decision in selecting eligible participants and to provide that Title II participants may be transferred into a Section 302 program.

In § 97.133, *Types of manpower program activity available*, paragraphs (c)(1)(i) and (ii) now include the manpower activities carried out by Indian Action Teams as examples of acceptable manpower activities.

In paragraph (c)(3)(i), a statement has been added which provides that public service employment includes subsidized employment opportunities with public employers.

In paragraph (c)(4)(i), a requirement has been added that the prime sponsor describe the design of a work experience program in the narrative of the approved Comprehensive Manpower Plan, and a statement has been added that work experience is a subsidized employment activity and may not be used as a substitute for public service employment.

In paragraph (c)(4)(vi), payments to work experience participants has been limited to wages.

Paragraph (c)(5)(iii) has been added to provide that post-placement services may be given to terminated participants during the 30-day period following such termination.

Paragraph (c)(5)(iv), *Participant benefits*, has been added.

Paragraph (c)(6)(ii), *Participant benefits*, has been added to provide that allowances may be paid to participants enrolled in other manpower activities when only such activities are provided on a regularly scheduled basis.

Former paragraph (c)(7) is now designated (c)(8) and a new (c)(7), entitled *Combined activities*, has been inserted to provide that, when a participant is enrolled in a primary activity for which wages are paid, and simultaneously in an activity for which allowances are payable, the participant may be paid wages for all hours of participation.

In paragraph (c)(8), the phrase "may establish operating procedures" has been changed to "shall establish operating procedures."

In § 97.134, *Training allowances* has been completely revised. The highlights of the revisions include:

(a) The basic allowance payment system is a straight minimum wage rate of compensation for each scheduled hour of participation.

(b) Scheduled participation may include classroom training, counseling, job orientation, etc., and need not be limited to classroom sessions only.

(c) Dependents' allowances are to be provided as an addition to the basic allowances and may not be adjusted or prorated for part-time participation or absences. Dependents' allowances may be waived only when the entire basic allowance is waived.

(d) Incentive allowances to a maximum of $30 per week may be provided in lieu of basic allowances to participants who receive public assistance; however, the incentive allowance may not exceed the basic allowance rate provided to other participants performing the same activities.

(e) The waiver provisions for the basic allowance have been clarified by requiring the prime sponsor to describe the circumstances under which allowances will be waived. In addition, conditions under which waivers may be allowed have been included.

In § 97.135, *Wages; minimum duration of training and reasonable expectation of employment*, a new paragraph (a)(2) has been added; in former paragraph (a)(2), which is now (a)(3), the words "employment other than public service employment" have been replaced by the words "on-the-job training."

Paragraph (b), *Duration of training*, has been changed to delete the sentence "Furthermore, no allowance will be paid for any course having a duration in excess of 104 weeks (Sec. 111(a))."

In § 97.141, *Prime sponsor contracts and subgrants*, the section now includes Indian governments as one level of government to which subgrants may be made.

In § 97.154, *Financial management systems*, a new paragraph (c) has been added to reflect conditions governing auditable records.

In § 97.161, *Allowable Federal costs*, has been revised to clarify the requirements and to add principles to be followed in the classification of costs.

In § 97.162, paragraph (e)(3) was inadvertently omitted from the June 26, 1974, printing of this subpart. It has now been included.

Paragraph (d) has been revised by deleting the word "allowances" since this type of cost will no longer be allowed under work experience activities.

In § 97.163, paragraph (b)(2), now paragraph (b)(1), has been changed to include new language which clarifies CETA staff positions and the term administrative capacity.

In § 97.164, *Adjustment in payments*, paragraph (a) has been revised, former paragraph (b) deleted, and a new paragraph (b) added to include more specific language concerning prime sponsors' responsibilities to maintain program levels.

In § 97.165, *Termination of grant*, former paragraph (b) has been relettered (c). A new paragraph (b) reflects the Secretary's discretion to suspend a grant.

In § 97.166, *Grant closeout procedures*, paragraph (b) has been revised to reflect more detailed closeout procedures.

In § 97.170, *Nondiscrimination and equal employment opportunities*, additional provisions have been added. Paragraph (b)(2) on age discrimination has been inserted, resulting in changes in the numbering of succeeding paragraphs.

In § 97.192, *Complaints, filing of former allegations; dismissal*, now describes administrative remedies related to the designation of prime sponsors.

Various other stylistic and editorial changes have also been made.

In consideration of the foregoing, 29 CFR is amended as follows:

1. By amending 29 CFR 94.3, *Consolidated table of contents for Parts 94–99.*, by substituting for the table of contents for 29 CFR Part 97, Subpart B, Indian Manpower Programs, the following new table of contents:

§ 94.3 Consolidated table of contents for Parts 94–99.

* * * * *

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

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2. By revising 29 CFR Part 97, Subpart B, Indian Manpower Programs, as follows:

Subpart B—Indian Manpower Programs

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97.101 Scope and purpose of Title III, Section 302, programs.
97.102 Scope and purpose of this subpart.
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Authority: Pub. L. 93-203, secs. 702(a) and 302(3), 87 Stat. 839; as amended, Pub. L. 93-567, 88 Stat. 1845, unless otherwise noted.

General

§ 97.101 Scope and purpose of Title III, Section 302, programs.

It is the purpose of Title III, Section 302, of the Act to provide job training and employment opportunities for economically disadvantaged, unemployed and underemployed Indians and others of native American descent and to assure that such training and other services lead to maximum employment opportunities and enhanced self-sufficiency. The purposes of this section of the Act are to be accomplished by the establishment of a flexible system of programs. No provision of this subpart shall abrogate in any way the trust responsibilities of the Federal government to Indian bands or tribes.

§ 97.102 Scope and purpose of this subpart.

(a) The regulations promulgated to carry out the Act are set forth in 29 CFR Parts 94-99. This subpart deals with matters pertaining to the implementation and operation of Indian Manpower Programs pursuant to Section 302 of Title III of the Act. It is designed to contain all the regulatory material under the Act necessary for the operation of Section 302 programs except where specific reference is made to other parts of this title. If the provisions of this subpart conflict with other regulations under the Act, the provisions of this subpart shall prevail with respect to programs under Section 302 of Title III of the Act.

(b) Statutory authority for the regulations contained in this Subpart B may be found in sections 702(a), 302(e) and in other provisions of the Act.

§ 97.103 Definitions.

"Act" shall mean the Comprehensive Employment and Training Act of 1973 (P.L. 93-203, 87 Stat. 839), as amended.

"Alaskan entity," see Indian or Alaskan entity.

"Allocation" shall mean the distribution of funds to prime sponsors according to the formula contained in this subpart.

"Area of substantial unemployment" shall mean an Indian reservation with a rate of unemployment among Indians of at least 6.5 percent for a period of 3 consecutive months.

"Audit" shall mean a review to determine whether:

(a) Financial operations are properly conducted;

(b) Financial reports are presented fairly;

(c) Applicable laws and regulations have been followed;

(d) Resources have been managed and used in an economical and efficient manner; and

(e) Desired results and objectives have been achieved.

"Audit Standards" shall mean the standards set forth in "The Standards for Audit of Government Organizations, Programs, Activities and Functions" promulgated by the Comptroller General of the United States.

"Capital improvement" shall mean any modification, addition, or restoration which increases the usefulness, productivity, or serviceable life of an existing building, structure, or major item of equipment which is classified for accounting purposes as a "fixed asset" and the recorded value of which is increased by the cost of the improvement and is subject to depreciation.

"Certification" shall mean a legally binding statement that certain requirements have been fulfilled.

"Client community" shall mean the group or groups of people to be served by a program or program activity.

"Consortium" means an agreement pursuant to § 97.111, among Indian tribes, bands, groups, Alaskan native villages and/or public and private nonprofit agencies.

"Contractor" shall mean any person, corporation, partnership, public agency, or similar entity which enters into a contract with a grantee, or with a subgrantee under Section 302 of the Act.

"Construction" shall mean the erection, installation, or assembly of a new facility or a major addition, expansion, or extension of an existing facility, and the related site preparation, excavation, filling and landscaping or other land improvements.

"Department" shall mean the United States Department of Labor including its agencies and organizational units.

"Dependent" shall mean any person for whom the participant has or has assumed, a responsibility for support, and who is:

(a) A relative who is a member of the participant's household.

(b) (1) A parent of the participant head of family;

(2) A child of the participant head of family;

(3) A relative of the participant head of family who is unemployable because of physical or mental disability; or

(c) An individual who:

(1) Is currently a member of the participant's immediate household; and

(2) During the preceding twelve months, earned less than $750.00.

"Disabled veteran" shall mean a person entitled to disability compensation under laws administered by the Veterans Administration or whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty, and shall refer to a person whose Veterans Administration entitlement to disability compensation may have ceased for statutory reasons prior to achieving a vocational goal and whose continuance of service will devolve on the State Vocational Rehabilitation Agency on termination of Veterans Administration sponsorship.

"Division of Indian Manpower Programs" (DIMP).

"Economically disadvantaged" shall mean a person who is a member of a family:

(a) which receives cash welfare payments, or

(b) whose annual income in relation to family size does not exceed the poverty level determined in accordance with criteria established by the Office of Management and Budget (OMB).

"Employing agency" for purposes of public service employment programs shall mean any employer designated by a prime sponsor, subgrantee or by the Secretary of Labor to employ participants pursuant to public service employment programs under the Act. The term shall include an eligible applicant, program agent or other subgrantee when acting as an employer.

"Family" shall mean one or more persons living in a single household who are related to each other by blood, marriage, or adoption except an unmarried member of a household:

(1) Who is 18 or older (or over 21 if attending school), and

(2) Who contributes less than 50 percent of the maintenance of any other member of the family, and

(3) Who receives less than 50 percent of his/her maintenance from the family.

"Federal audits" shall mean audits conducted by the Comptroller General (CG) and U.S. Department of Labor and its agents.

"Federal reservation" shall mean lands as identified by the Bureau of Indian Affairs which have been set aside for Indian tribes and for which the United States is trustee including non-trust land under the tribal jurisdiction.

"FMC" shall mean Federal Management Circular.

"Governor" shall mean the chief executive officer of a State, or his designee.

"Grantee" shall mean any entity which receives a grant from the Department to establish or operate any program or activity under this subpart.

"Governing body" shall mean a body consisting of duly elected representatives or a body appointed by a duly elected official which has the authority to provide services to, and to enter into contracts, agreements and grants under this subpart on behalf of the individuals who elected them or elected the appointing official, and which is recognized as having such authority by the appropriate Federal or State agencies.

"Head of family" shall mean that adult person who is regarded as the head of the family by the other members of the immediate family.

"Health care" includes but is not limited to preventive and clinical medical treatment, voluntary family planning services, nutritional services, and appropriate psychiatric, psychological and prosthetic services, to the extent any such treatment or services are necessary to enable a participant to obtain or retain employment under this subpart.

"Indian band" shall mean a community of Indians which is recognized as an Indian entity, and which identifies itself in relationship to a historically recognized tribe, lives in a contiguous geographic area, has been historically recognized as such a community by other communities located in geographic proximity to the subject community, and which has an existing recognized system of selecting representatives who have authority to speak for and on behalf of the band.

"Indian or Alaskan entity" shall mean an Indian tribe, band, or group, or an Alaskan native village or corporation or a private nonprofit Indian or Alaskan organization.

"Indian group" shall mean, except in the case of Alaskan native groups, a community of Indians, other than a band, which is recognized as an Indian entity, and which identifies itself in relationship to a historically recognized tribe, lives in a contiguous geographic area, has been historically recognized as such a community by other communities located in geographic proximity to the subject community, and which has an existing recognized system of selecting representatives who may speak for and on behalf of the group.

"Indian tribe" shall mean a district political community, which exercises powers of self-government and which has historically exercised such powers on behalf of individuals who identify themselves as Indians and who, as a community have been historically recognized as an Indian tribe. Such a tribe must have a system for selecting representatives to speak for and on behalf of the tribe.

"Low-income level" shall mean an annual income level which bears the same relationship to $7,000 as the current year's Consumer Price Index bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

"Native village" shall mean any tribe, band, clan, group, village, community or association in Alaska, listed in sections 11 and 16 of the Alaska Native Claim Settlement Act (Public Law 92-203) or which meets the requirements of that Act and which has been determined by the Secretary of the Interior to be composed of 25 or more natives.

"Placement" shall mean the hiring into unsubsidized employment of an individual referred for a job or interview by a prime sponsor, subgrantee, or contractor when the prime sponsor, subgrantee, or contractor: (a) (1) made arrangements with the employer for referral of the individual; (2) referred an individual who had not been specifically designated by the employer; (3) verified from a reliable source, preferably the employer, that the individual had entered on a job; and (4) recorded the transaction on an appropriate form.

(b) There are three types of placement:

(1) Short-term placements which are expected to have a duration of three days or less;

(2) Mid-term placements which are expected to have a duration from four days to one-hundred-fifty days; and

(3) Long-term placements which are expected to have a duration of more than one-hundred-fifty days.

(c) Placement does not include referral to another program activity, to education or training courses not supported under the Act, or to the Armed Forces.

"Poverty level" shall mean the annual income threshold below which families are considered to live in poverty, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

"Prime Sponsor allotment" shall mean the total amount of funds to be granted to a prime sponsor or eligible applicant for any fiscal year under Section 302 of the Act. The prime sponsor allotment shall include those funds allocated to the grantee on the basis of a formula used by the Secretary and, in addition, any

of the Secretary's discretionary funds designated for use by the grantee.

"Prime sponsor" shall mean an Indian tribe, band or group or Alaskan Native village, a consortium, or a public or private agency which has been given a grant by the Department to provide comprehensive manpower services under this subpart.

"Professional work" shall mean work performed by an individual acting in a bona fide professional capacity as described in section 13(a)(1) of the Fair Labor Standards Act.

"Program of demonstrated effectiveness" shall mean a manpower program, such as a program conducted by a community based organization, which has a history of providing manpower services to the economically disadvantaged and has demonstrated the capacity to meet goals at reasonable costs.

"Public service employment" shall mean service normally provided by government and includes, but is not limited to, work such as beautification, conservation, crime prevention and control, education, child care, environmental quality, fire protection, health care, housing and neighborhood improvements, manpower services, park, street and other public facility maintenance, pollution control, prison rehabilitation, public safety, recreation, rural development, solid waste removal, transportation, veteran outreach and other services for human betterment and community improvement. It includes part-time work for individuals who are unable to work full-time because of age, handicap or other similar reasons. It excludes building and highway construction work (except that which is normally performed by the prime sponsor) and other work which inures primarily to the benefit of a private profitmaking organization.

"Rate of unemployment" shall mean the percentage of unemployed persons as determined by the Secretary in the total civilian labor force.

"Secretary" shall mean the Secretary of the Department of Labor, or his delegate, except in §§ 190–198, when "Secretary" shall mean solely the Secretary of the Department of Labor.

"SESA" shall mean a State employment security agency affiliated with the United States Employment Service.

"State reservation" shall mean an Indian reservation recognized as such by the State in which it is located.

"Subgrantee" shall mean any governmental unit or private nonprofit agency which receives a grant from a prime sponsor under Section 302 of the Act.

"Sufficient size and scope" shall describe an Indian tribe, band, group, or Alaskan native village, or a consortium of tribes, bands, groups, or Alaskan native villages composed of at least 1,000 individuals, who are capable of performing the functions necessary to administer a comprehensive manpower program and, who have a governing body as defined under this section, or in the case of a consortium, is capable of performing the functions required of a governing body.

"Supportive or manpower services" shall mean services designed to contribute to the employability of participants, enhance their employment opportunities, assist them to retain employment, or facilitate their movement into permanent unsubsidized employment.

"Underemployed person" shall mean a person who is working part-time but seeking full-time work or a person who is working full-time but whose salary relative to his or her family size is below the low-income level.

"Unemployed person" shall mean:

(a) A person who is without a job and who wants and is available for work:

(1) A person who is without a job is a person who did not work during the calendar week preceding the week in which the determination of his eligibility for participation is made. Except in the case of persons described in paragraphs (a)(2) and (3) of this section, the determination of who wants and is available for work will be made by the prime sponsor or his designee except that persons who have been discouraged from seeking work but who are currently available for work shall not be excluded from eligibility.

(2) If a person is confined in a correctional institution, and if there is a reasonable expectation that release will follow the completion of training within a reasonable time, the person shall be considered unemployed.

(3) A person is not to be considered to be available for work if he/she is without a job because of participation in an ongoing strike or lock-out at the usual place of employment; or

(b) In the case of welfare recipients, an adult who, or whose family, receives money payments pursuant to a State plan approved under the Social Security Act, Title IV (Aid to Families With Dependent Children), or supplemental security income under the Social Security Act, Title XVI (Supplemental Security Income for the Aged, Blind, and Disabled), or would be eligible for such payments according to the standards set forth at 45 CFR Part 233 and 20 CFR Part 416 if both parents were not present in the home, and

(1) Who is available for work, and

(2) Who is either without a job or working in a job providing insufficient income to enable such a person and his/her family to be self-supporting without welfare assistance.

"Unemployment compensation" shall mean the compensation payable in accordance with the provisions of a State or Federal unemployment compensation law, and payments of unemployment assistance in accordance with the provisions of the Disaster Relief Act, Trade Readjustment Allowances in accordance with the provisions of the Trade Expansion Act, and payments of similar assistance or allowances in accordance with the provisions of any other Federal law.

§ 97.104 Eligibility for funds; allocation of funds.

(a) *Eligibility for funds.* (1) Funds shall be allocated by the Secretary only to prime sponsors. The Secretary, before entering into a grant with a prime sponsor applicant, shall be satisfied that such applicant currently has or is able to develop the capability necessary to effectively administer and operate a comprehensive manpower program. This capability shall include at least the ability to maintain the necessary records and accounting system, properly administer government funds, develop employment and training positions, negotiate and administer subgrants and contracts, evaluate program performance and maintain any required personnel merit program. Previous experience in operating an effective multicomponent manpower program is one indication of capability to administer a comprehensive manpower program.

(2) In addition, before entering into grants with prime sponsors which are consortia, public or private nonprofit agencies, or private for profit organizations, the Secretary must be satisfied that the plans submitted by such prime sponsor applicants shall adequately and equitably serve eligible participants.

(b) *A prime sponsor shall be one of the following*—(1) *Independently eligible prime sponsor.* An independently eligible prime sponsor shall be an Indian or Alaskan native entity which has:

(i) A governing body as defined in section 97.103;

(ii) An identifiable resident population of at least 1,000 individuals or which is entitled to an allocation of at least $50,000; and

(iii) The capability of administering a comprehensive manpower program.

In the case of a reservation with more than one tribe, each tribe which is independently eligible in accordance with the criteria of this paragraph shall be entitled to a separate grant.

(2) *Consortium prime sponsor.* Indian or Alaskan native entities which do not meet the criteria for independent prime sponsorship may participate in a consortium.

(i) *Consortium including an independently eligible prime sponsor.* An Indian or Alaskan native entity may enter into a consortium with a prime sponsor eligible under paragraph (b)(1) of this section. The consortium thus formed shall be the prime sponsor, and one member thereof or an entity formed by the members must be designated as the administrative unit and delegated the responsibility for operating the program. Such a consortium may operate in more than one State. The administrative unit must be capable of performing both the functions required of a governing body (see § 97.103, "governing body") and the functions necessary to carry out a comprehensive manpower program.

(ii) *Consortium where no member meets the criteria for independent prime sponsorship.* A consortium may be formed by Indian or Alaskan native entities none of which are eligible for independent prime sponsorship under paragraph (b)(1), provided that:

(A) All of the members are in geographic proximity to one another; and

(B) the consortium has a resident population of at least 1,000 persons; or

(C) the consortium is entitled to an allocation of at least $50,000.

The consortium thus formed shall be the prime sponsor, and a member thereof, or an entity formed by the members, must be designated as the administrative unit and delegated the responsibility for operating the program. The administrative unit must be capable of performing both the functions required of a governing body (see § 97.103, "governing body") and the functions necessary to carry out a comprehensive manpower program.

(iii) *Consortium involving public or private nonprofit agencies.* An Indian or Alaskan native entity may enter into a consortium with a public or private nonprofit agency. The consortium thus formed shall be the prime sponsor and the public or private nonprofit agency shall be the administrative unit and must be capable of performing the functions necessary to administer a comprehensive manpower program. The consortium need not have a resident population of 1,000 persons. However, the combined allocations for the members must be of such an amount that, in the opinion of the Secretary, it will be possible and feasible to provide comprehensive manpower services to individuals residing within the geographic area of responsibility of the consortium who are in need of such services. Examples of eligible public or private nonprofit agencies are Intertribal Councils, Title I prime sponsors and Tribal Chairmen's Associations.

(3) *Public or private nonprofit agencies as prime sponsors.* (i) In areas where there are significant numbers of eligible participants but where there are no Indian or Alaskan native entities which meet the criteria for independent or consortium prime sponsorship as described in paragraphs (b) (1) and (2) of this section, the Secretary shall enter into agreements with public or private nonprofit agencies capable of effectively administering comprehensive manpower programs, such as prime sponsors under Title I of the Act. To the extent feasible, such designated prime sponsor will meet with the approval of the eligible participants to be served. Such prime sponsors must agree to serve, as equitably as possible, only eligible participants.

(ii) Where there are Indian or Alaskan native entities which do not meet the eligibility criteria for independent prime sponsorship, or who do meet the eligibility criteria but decline to operate a program, the Secretary shall designate a prime sponsor for that area. To the extent feasible, such a designated prime sponsor must be approved by the tribes, bands or groups to be served.

(iii) In order to exercise prior approval:

(A) An Indian or Alaskan native entity must be an Indian tribe, band, group, or Alaskan native village and it must prove that it represents at least 1,000 individuals in the area by providing the Secretary with a list of such members. It must also provide a written explanation of the official procedures utilized to select its chief officials, or

(B) A combination of tribes, bands, groups, or Alaskan native villages, as defined in this subpart, must be able to prove, by providing the Secretary with a list of such members, that, when combined, such combination represents at least 1,000 individuals.

(4) *Private for profit prime sponsors.* Whenever the Secretary determines not to designate Indian tribes, bands, groups, or Alaskan native villages as prime sponsors, he shall, to the maximum extent possible, designate public or private nonprofit agencies. If this is not possible, he may designate private for profit agencies. In such cases, the Indian or Alaskan native entities to be served must agree to such sponsorship.

(c) *Allocation of funds.* In order to insure all Indians and others of native American descent equal accessibility to funds made available under this subpart, funds will be allocated (after making any necessary adjustments based on the appropriation level) using the following formula:

(1) Twenty-five percent of the available funds shall be allocated on the basis of the relative number of unemployed Indians and other native Americans within the prime sponsor's geographic area of responsibility compared to the total number of unemployed Indians and other native Americans in the United States.

(2) Seventy-five percent of the available funds shall be allocated on the basis of the relative number of low-income Indian and other native American families within the prime sponsor's geographic area of responsibility compared to the total number of low-income Indian and other native American families in the United States, except that:

(3) If the factors described above result in the reduction of an area's allocation from its allocation in the preceding fiscal year, the Secretary shall provide each area with at least 90 percent of such area's allotment for the preceding fiscal year, provided sufficient funds are appropriated.

(d) *Data to support formula allocation factors.* In allocating funds, the Secretary shall use whatever data are, in his opinion, the most reliable.

(e) *Unobligated funds.* If, by the end of 9 months of the fiscal year no eligible and willing prime sponsor has been identified by the Secretary in an area, the Secretary shall make such funds available to prime sponsors of his choosing (preferably Section 302 prime sponsors) serving Indians or others of native American descent outside of the area to which such funds were originally allocated but, if possible, such prime sponsor shall be located within the same State as the area to which the funds were originally allocated.

(f) *Publication of allocations.* The allocations made to prime sponsors will be published in the FEDERAL REGISTER as soon as possible after the appropriation for a fiscal year is enacted.

GRANT PLANNING, APPLICATION AND MODIFICATION PROCEDURES

§ 97.110 Grant planning, application and modification procedures in general.

Sections 97.110–97.122 set forth the procedures for obtaining and modifying a grant to operate programs under Section 302 of the Act. Specifically, these sections describe the procedures in the grant award process—from a prime sponsor applicant's initial intent to apply, through the grant application process, to review by the Department, approval or disapproval of the grant, and modification. These sections also describe the functions of prime sponsor Manpower Planning Councils.

§ 97.111 Notification of intent to apply for prime sponsorship; consortium agreements.

(a) For each fiscal year a prime sponsor applicant interested in receiving a grant shall submit to the Secretary, with a copy to the Governor, a notification of intent to apply for prime sponsorship using the Preapplication for Federal Assistance Form, Part I. Notices of intent should be postmarked by March 1. Such notifications should be sent to the Office of National Programs, Division of Indian Manpower Programs, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213.

(b) In addition to the notification of intent, each consortium which desires to be a prime sponsor shall submit to the Secretary a formal consortium agreement which includes the following:

(1) A statement that the agreement has been formed under Section 302 of the Comprehensive Employment and Training Act of 1973;

(2) An identification of the member units which are parties to the agreement; i.e., the name and address of each Indian tribe, band or group or each Alaskan native village that is a member of the consortium;

(3) The geographic area which will be served by the consortium;

(4) The population to be served;

(5) An attached letter from an appropriate official of each member assuring that each party signatory has the necessary authority, including any necessary legal authority, to enter into a consortium agreement (these letters shall be made part of the grant agreement);

(6) A statement choosing one of the following procedures for signing the grant agreement: signing by the chief elected official or chief executive officer of each party to the consortium agreement; or, if specified in the consortium agreement, signing by the chief elected official or chief executive officer of one or more of the parties to the consortium agreement, or by the chief executive officer of the consortium's administrative unit.

(7) A certification that, to the extent consistent with any applicable law, each party signatory to the agreement accepts responsibility for the operation of the program (i.e., that each member of the

consortium, rather than the administrative unit, has ultimate responsibility for the program's operation and success);

(8) A description of the powers, functions and responsibilities reserved by the parties to the agreement, the process by which decisions will be made, the process by which each party to the agreement will review and approve the comprehensive manpower plan, and the procedure, if any, by which chief elected officials of the members of the consortium will participate in the planning and operation of the program;

(9) A statement describing by name the administrative unit proposed to operate the program, and delineating the organizational structure, powers, functions, and responsibilities proposed to be given to this unit as well as the powers, functions, and responsibilities proposed to be retained by the consortium's members. This administrative unit may be one member of the consortium.

(10) A statement explaining the method by which the individual or individuals in paragraph (b)(6) of this section who will be acting for and on behalf of the tribes, band, or group were elected or selected.

(c) (1) The consortium shall be the prime sponsor. (2) The consortium's administrative unit shall be delegated all powers necessary to administer the program effectively, including the power to enter into contracts and subgrants and other necessary agreements, to receive and expend funds, to employ personnel, to organize and train staff, to develop procedures for program planning, to evaluate program performance and determine any need to reallocate resources, and to modify the grant agreement through agreement with the Department. Such delegation shall not relieve the members of the consortium of responsibility for the use of funds. The rights of evaluating the program and reallocating funds shall be reserved to the consortium's members.

(d) The consortium agreement shall state that the consortium shall have a period of duration at least equal to that of the grant.

(e) A consortium which submitted a proposed written agreement in the preceding year may, in lieu of executing a new consortium agreement, attest in writing signed by the chief elected official or chief executive officer of each consortium member that details of the proposed agreement for the current year are the same as for the preceding year or that only certain parts are different. If parts of the agreement are different, the complete text of these changes shall be written out in the attestation.

(f) Qualifications support documentation shall also be submitted by prime sponsor applicants along with the notification of intent. These shall include, if applicable:

(1) A statement of the applicant's experience in managing the types of programs and activities allowable under CETA;

(2) A description of past successes in operating programs for Indians or others of native American descent;

(3) Copies of official documents showing the structures of Boards, Area Councils, Advisory Bodies, etc., on which Indians and others of native American descent participate and which are proposed to be involved in the planning and operation of the proposed programs;

(4) A description of linkages with other manpower programs and social service programs;

(5) If possible, resumes of key management staff present and proposed;

(6) Letters of endorsement from other responsible organizations within the same geographic area; and

(7) A list of the Organization's Board members with a short statement indicating how such board members are selected.

§ 97.112 Prime sponsor designation.

Upon receipt of a completed notification of intent, including the qualification supportment documentation, the Secretary shall determine whether or not the applicant is eligible to be designated as a prime sponsor and shall notify the applicant of its designation as a prime sponsor. A grant application package shall be sent to each applicant designated as a prime sponsor.

§ 97.113 Planning process; advisory councils.

(a) *General.* To receive a grant a prime sponsor shall submit a Comprehensive Manpower Plan, as described in § 97.114. The Secretary shall provide assistance to prime sponsors in the development of their plans upon their request.

(b) *Planning process.* The prime sponsor shall establish a planning process for the development of its Comprehensive Manpower Plan. That process shall use the Manpower Planning Council established pursuant to this section and may use other planners and services in the same geographic area. The prime sponsor, in developing his plan, shall take into consideration services being provided by other organizations. The Secretary, in reviewing prime sponsor plans, shall assure that such consideration has been given. The prime sponsor shall make public its plan upon its submission to the Secretary. The prime sponsor may do this by announcing in an appropriate publication that the plan may be reviewed by visiting the prime sponsor's office. The announcement shall include the address of the office.

(c) *Prime sponsor Manpower Planning Council.* (1) Each prime sponsor shall establish a Manpower Planning Council whose membership may include, but not necessarily be limited to: persons from the client community, community-based organizations, the State employment service, education and training agencies, the Bureau of Indian Affairs, the Indian Health Service, and business and labor organizations. The planning council shall include representatives from each member of the consortium. The prime sponsor shall coordinate its planning council with other manpower planning councils in or near the area.

(2) The prime sponsor shall appoint all members of the planning council, designate one member to be chairperson, and provide professional, technical and clerical staff who shall be responsible to the prime sponsor. Costs of meetings, including meeting rooms, travel and per diem may be paid with grant funds; however, no grant funds may be used for salaries or wages paid to planning council members. All meetings must be held within the prime sponsor's designated geographic area of responsibility. The planning council shall make recommendations on program plans, goals, policies and procedures, and shall provide objective evaluations and continuing analyses of needs for employment, training and related services in the prime sponsorship area. The planning council should also have responsibility for commenting on program plans, monitoring program operations, and recommending corrective action. These functions are advisory; however, the prime sponsor should consider the comments when exercising its decisionmaking responsibility.

(d) *Regional planning meeting.* (1) Prime sponsors may hold regional planning meetings of prime sponsors in each Department of Labor regional area.

(2) Such meetings may be held no more than one a year and shall have the following purposes:

(i) To comment on each prime sponsor's plan for the coming year;

(ii) To discuss policies, basic goals, program plans and procedures;

(iii) To develop and make recommendations for more effective coordination of efforts; and

(iv) To select a participant each year to represent all prime sponsors in the region at any meeting on national Indian policy which may be called; the regional group shall inform the Division of Indian Manpower Programs of the name and address of each designee.

(3) Grant funds may be used for holding the annual regional planning meeting.

(4) Where necessary and appropriate, the Division of Indian Manpower Programs shall assist prime sponsors in organizing these meetings.

§ 97.114 Content and description of grant application.

(a) *General.* (1) This section describes the grant application which prime sponsor applicants will use to apply for funds.

(2) Copies of all forms and form instructions are contained in the Forms Preparation Handbook, which shall be provided to prime sponsor applicants by the Department.

(b) *Grant application forms*—(1) *Application for Federal Assistance.* The Application for Federal Assistance identifies the prime sponsor applicant and the amount of funds requested; it provides information concerning the area to be served and the number of people ex-

pected to benefit from the program.

(2) *Comprehensive Manpower Plan.* The Comprehensive Manpower Plan is an explanation of how the prime sponsor applicant intends to use grant funds and to coordinate its activities with other manpower programs and services operating within its jurisdiction. It consists of a Program Narrative Description, a Program Planning Summary, a Budget Information Summary, and Program and Occupational Summaries for Public Service Employment, and for consortium prime sponsors, the consortium agreement.

(i) *Program Narrative Description.* The Program Narative Description is a narrative outline of the proposed program. It identifies and explains the manpower problems within the prime sponsor's jurisdiction, describes proposed program activities and delivery systems to deal with those problems, and projects the results expected from the program. It also includes a detailed description of the proposed program including:

(A) *Objectives and needs for assistance.* (*1*) Policy statement on purpose of program;

(*2*) Description of economic conditions in the area;

(*3*) Description of labor market characteristics in the area;

(*4*) Assessment of skill shortages;

(*5*) Definition of manpower needs;

(*6*) Statement of groups to be served including priority groups; and

(*7*) Statement of goals to be accomplished.

(B) *Results and benefits expected.* (*1*) Statement relating planning results to needs;

(*2*) Description of "other activities" in the Program Planning Summary;

(*3*) Statement of how training and services will provide participants with economic self-sufficiency; and

(*4*) Explanation of how training will lead to employment and enhance career development.

(C) *Approach.* (*1*) Description of planning system and participation of community-based organizations;

(*2*) Statement of strategy for accomplishing goals;

(*3*) Description of each program activity and service;

(*4*) Description of methods to be used to recruit, select and determine eligibility of participants;

(*5*) Description of how persons of limited English language speaking ability will be served, if these represent a significant portion of a prime sponsor's eligible participants;

(*6*) Description of consideration given programs of demonstrated effectiveness, if any;

(*7*) Description of prime sponsor's administrative system;

(*8*) Description of allowance payment system;

(*9*) Explanation of the system for accounting for placements;

(*10*) Explanation of reasons specific delivery agents were selected including area skill centers and justification when other than existing facilities have been selected;

(*11*) Description of coordination with deliverers of manpower services not supported by the Act; and

(*12*) Justification of administrative costs planned.

(D) *Geographic Location Served.* Description of geographic locations to be served. Each area within a prime sponsor jurisdiction shall be served on as equitable a basis as possible.

(E) *Public Service Employment Programs.* (*1*) Description of target population and significant segments of the population which need special attention;

(*2*) Description of public service needs and priorities;

(*3*) Comparison of proposed jobs to public service needs in the area;

(*4*) Justification of funding and job allocation by area in order to assure that services to all areas are as equitable as possible;

(*5*) Description of strategy for matching jobs to veterans' skills;

(*6*) Description of plan for monitoring services to significant segments; and to priority groups such as disabled and special veterans and welfare recipients;

(*7*) Orientation procedures for participants;

(*8*) Description of determination of rates of compensation if they differ from what is normally paid by employer;

(*9*) Description of actions to insure compliance with personnel procedures and collective bargaining agreements;

(ii) *Program Planning Summary.* The Program Planning Summary is a quantitative statement of proposed enrollment levels, and expected outcomes for program participants.

(iii) *Budget Information Summary.* The Budget Information Summary is a financial summary of the planned expenditures of program objectives broken out by program activity and cost categories.

(iv) *Public Service Employment Occupational Summary.* The Occupational Summary is a description of proposed public service job opportunities, occupations and wages, including a comparison of proposed PSE wages with wages for similar unsubsidized jobs in the employing agencies.

(v) *Public Service Employment Program Summary.* The Program Summary shows how public employment jobs and funds are proposed to be distributed among the prime sponsor and its proposed subgrantees. It also designates the areas and populations to be served by each distributee.

(vi) *Assurances and Certifications.* The Assurances and Certifications form is a signature sheet on which the prime sponsor assures and certifies that it will comply with the Act, the regulations under the act, other applicable law, and applicable Federal Management Circulars and Office of Management and Budget (OMB) circulars. The Assurances and Certifications form appears in the "Forms Preparation Handbook." Among the assurances and certifications, on the form, to which, if applicable, the prime sponsors must agree, are assurances and certifications tha tthe prime sponsor.

(A) Will comply with the Act and regulations;

(B) Will comply with FMC 74–4, FMC 74–7, OMB Circular A–95 and the Property Handbook for MA Contractors, as appropriate;

(C) Has legal authority to apply for the grant (Sec. 102(a), 701(a), (9) and (10));

(D) Will comply with the Non-Discrimination Clause;

(E) Will comply with Title VI of the Civil Rights Act of 1964, as appropriate;

(F) Will comply with the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970;

(G) Will comply with the Hatch Act (Sec. 710);

(H) Will prohibit the use of positions under the grant for private gain (Sec. 702(a));

(I) Will provide the Comptroller General and the Secretary with access to records and documents pertaining to programs under the Act (Sec. 713(2));

(J) Will not support religious facilities (Sec. 703(4));

(K) Will maintain required health and safety standards (Sec. 703(5));

(L) Will provide appropriate employment and training conditions with regard to type of work, geographical region and proficiency of the client (Sec. 703(4));

(M) Will provide appropriate workers' compensation to all participants in on-the-job training, work experience and public service employment activities. (Such workers' compensation shall also be provided through insurance for all participants in classroom training, services to participants or other activities.) (Sec. 703(6));

(N) Will use funds under the Act to supplement, rather than supplant funds otherwise available; will prohibit the displacement of employed workers by participants employed under the Act; and will prohibit the impairment of existing contracts for services (Secs. 703(11) and 703(7));

(O) Will provide training which has a reasonable expectation of leading to unsubsidized employment and which provides for the development of participants' employment potential (Secs. 703(9), 105(a)(6), and 703(10));

(P) Will provide training only in occupations which require two or more weeks of pre-employment training, except when there are immediate employment opportunities in other occupations (Secs. 703(9) and 105(a)(6));

(Q) Will comply with the reporting and recordkeeping requirements of the Act and regulations (Secs. 703(12), 311(c));

(R) Will contribute to the occupational development and upward mobility of participants (Sec. 703(13));

(S) Will provide required administrative and accounting controls (Sec. 703(14));

(T) Will provide for the manpower needs of youth (Sec. 703(15));

(U) Will comply with applicable labor standards pertaining to the work-site and training facilities (Secs. 111(b), 706);

(V) Will administer, or will supervise, the administration of services and activities (Sec. 105(a)(1)(D));

(W) Will provide manpower services to those most in need of them, and will continue funding programs of demonstrated effectiveness (Sec. 105(a)(1)(D));

(X) Will design programs of institutional skill training for skill shortage occupations (Sec. 105(a)(6));

(Y) Will submit a comprehensive plan in accordance with Section 105(a) and compliance with the provisions of Section 105(b);

(Z) Will assist the Secretary in carrying out his responsibilities under Sections 105 and 108 of the Act (Sec. 105(a)(7)).

(vii) *Additional Assurances relating to public service employment programs funded with Section 302 funds.* The prime sponsor applicant must also give assurance that, in public service employment program, it will:

(A) Give special consideration to the filling of jobs which provide prospects for advancement or continued employment by providing complementary training and manpower services in accordance with procedures established in Section 205(c)(4) of the Act;

(B) Give special consideration to unemployed disabled veterans, special veterans and veterans discharged within four years of the date of application in filling public service jobs, and, will engage in special outreach and coordination efforts to serve such veterans (Secs. 205(c)(5) of the Act and Sec. 104 (b) of the Emergency Jobs and Unemployment Assistance Act of 1974) (P.L. 93-567).

(C) Provide public service jobs, to the extent feasible, which will be in occupational fields within the public or private sector most likely to expand as the unemployment rate recedes (Sec. 205(c)(6));

(D) Will give special consideration, in filing transitional public service jobs to persons most severely disadvantaged in terms of length of unemployment and prospects for finding employment unassisted, but will not authorize the hiring of any person when another person is on layoff from the same or equivalent job (Sec. 205(c)(7));

(E) Will not use funds provided under the Act to hire or permit the hiring of any person to fill a job opening created by the action of an employer in laying off or terminating the employment of any other regular employee not supported under the Act in anticipation of filling such vacancy by hiring an employee to be supported under the Act (Sec. 205(c)(8));

(F) Will consider persons who have participated in other manpower training programs (Sec. 205(c)(9));

(G) Will cooperate with periodic review procedures conducted pursuant to Section 207(a) of the Act (Sec. 205(c)(17));

(H) Attempt to remove artificial barriers to public employment by agencies and institutions receiving financial assistance and, to the maximum extent feasible, eliminate artificial barriers to employment and occupational advancement (Secs. 205(c)(18) and 205(c)(21));

(I) Will maintain or provide linkages with upgrading and other manpower programs to assist persons employed in public employment programs to fulfill their career goals (Sec. 205(c)(19));

(J) Will select all persons employed, except, when necessary, technical, supervisory, and administrative personnel, from among unemployed and underemployed persons (Sec. 205(c)(20));

(K) No more than one-third of the participants may be employed in a bona fide professional capacity except in the case of classroom teachers; the Secretary may waive this limitation in exceptional circumstances (Sec. 205(c)(22));

(L) There will be provision of jobs in each job category which will not infringe upon the promotional opportunities of unsubsidized current employees and provision of jobs only at the entry level in each job category until applicable personnel procedures and collective bargaining agreements have been met (Sec. 205(c)(24));

(M) There will be provision of jobs in addition to those that would otherwise be funded by the prime sponsor without assistance under the Act (Sec. 205(c)(25));

§ 97.115 Comment and publication procedures relating to submission of grant application.

(a) In order to achieve maximum coordination among CETA prime sponsors, each prime sponsor shall, no later than the date of its submission of an application to the Secretary, provide an opportunity for comment on the application to provide for maximum coordination among prime sponsors of comprehensive manpower programs. The prime sponsor shall be under no obligation to make any changes in its plan as a result of any comments.

(b) An opportunity to comment shall be provided to:

(1) The Governor(s);

(2) Officials of appropriate units of general local government; and

(3) Officials of each tribe, band, group, or Alaskan native village to be served.

(c) Comments shall be received by the prime sponsor for 30 days.

(d) The prime sponsor shall acknowledge receipt of a comment and may provide the commenting party with information on any actions or revisions made due to the comment.

(e) All comments and responses shall be transmitted to the Division of Indian Manpower Programs with the grant application or, if the comment is received or responded to after the application submission, separately to the Division of Indian Programs.

§ 97.116 Submission of grant application.

Each prime sponsor shall submit its grant application to the Division of Indian Manpower Programs on or before a date set by the Division.

§ 97.117 Standards for reviewing grant application.

(a) A grant application will be reviewed by the Grant Officer to determine if it meets the requirements of the Act, these regulations, and other applicable law.

(b) The Grant Officer shall also determine whether:

(1) The application is complete;

(2) The needs and priorities identified in the application are supported and justified by the documentation provided by the prime sponsor;

(3) The planned expenditures for program activities are substantiated by documentation;

(4) The performance goals are reasonable in the light of program experience in the same or similar activities and the documentation provided by the prime sponsor;

(5) Appropriate arrangements were made to involve the population to be served and community-based organizations providing services to Indians and others of native American descent in the planning process through representation on the Prime Sponsor Manpower Planning Council or otherwise;

(6) The prime sponsor's selection of the method of delivery of services is supported by adequate documentation and is based on the availability and capability of delivery agents and the appropriateness of services for the population to be served;

(7) Maximum efforts such as monitoring and evaluation have been made to meet the goals of the prior year's plan, if any;

(8) The administrative costs are reasonable and provide, to the maximum extent feasible, for funds to be expended for direct program activities and services, and, if administrative costs are proposed to exceed 20 percent of the cost of non-PSE activities, whether the prime sponsor's documentation has adequately justified such a cost. Administrative costs for PSE may not exceed 10 percent of the funds set aside for PSE;

(9) The prime sponsor has adequate internal administrative controls, accounting requirements, personnel standards, monitoring and evaluation procedures, in-service training and technical assistance, and other such policies;

(10) All appropriate parties have been afforded an opportunity to comment on the comprehensive manpower plan;

(11) The extent to which existing services and facilities proposed to be used are appropriate and/or the justification for not using existing services and facilities is adequate and reasonable;

(12) The composition of the Manpower Planning Council is appropriate;

(13) The planned services and activities adequately described;

(14) The programs of institutional training are designed for occupations in which skill shortages exist;

(15) Appropriate arrangements have been made for coordination with other

manpower and manpower-related programs funded by the Department of Labor.

§ 97.118 Application approval; grant agreement.

(a) A designated prime sponsor's application for a grant shall be approved if it meets the requirements of the Act, the regulations promulgated under the Act, other applicable law, and if the Director of Indian Manpower Programs determines that the prime sponsor has demonstrated maximum efforts to meet the goals of the prior year's plan, if the prime sponsor has run such a prior plan.

(b) An application for a grant from a consortium shall be approved if, in addition to the requirements of paragraph (a) of this section, an adequate consortium agreement has been submitted to the Director of Indian Programs.

(c) The prime sponsor and the Governor shall be notified of the approval of the application. If an application is approved, the Secretary shall provide the prime sponsor with a grant agreement, consisting of the Grant Signature Sheet and the Assurance and Certifications form, and the Comprehensive Manpower Plan.

(d) The Grant Signature Sheet shall specify the amount obligated by the Department to the grantee, and the duration of the grant and shall be signed by the Grant Officer and a duly constituted official of the prime sponsor.

§ 97.119 Application disapproval.

(a) An application for a grant shall be disapproved if it fails to meet any requirement of the Act, the regulations promulgated under the Act, or any other applicable law.

(b) No application shall be disapproved solely because of the percentage of total funds devoted to an allowable manpower program activity.

(c) No application for a grant shall be disapproved until:

(1) The prime sponsor has been notified that its application fails to meet a requirement of the Act, regulations promulgated under the Act, or other applicable law; and

(2) The prime sponsor is provided with suggestions on corrective steps to remedy any defect in the application; and the prime sponsor has been provided with at least 30 days to remedy the defect, but has failed to do so.

(d) When an application is disapproved, a notice of disapproval shall be transmitted to the prime sponsor and the Governor, accompanied by a statement of the grounds of the disapproval and a notice that a hearing may be requested by the prime sponsor pursuant to §§ 97.190–97.198.

§ 97.120 Use of alternate prime sponsors; services by the Secretary.

If an application is not filed as required, or is denied, or if a grant is terminated in whole or in part during a fiscal year, the Secretary may make provision for any funds released thereby to be used by another prime sponsor (preferably by an existing Section 302 prime sponsor) to service the area originally to be served by the first prime sponsor, or the Secretary may serve such an area directly or may allocate such funds to another area where, in the opinion of the Secretary, they can be more effectively utilized.

§ 97.121 Modification of grant agreement.

(a) A Grant Signature Sheet shall be used as the instrument to modify a grant agreement when a change is proposed in the terms and the conditions of the grant.

(b) When the terms or conditions of the grant are changed, the prime sponsor shall also submit revised portions of its Comprehensive Manpower Plan to the Secretary to specifically identify the changes.

(c) When the terms or conditions of a grant are changed, the comment procedures described in § 97.115 shall be followed.

(d) When the prime sponsor allocation is obligated in increments, each subsequent obligation shall require a modified grant signature sheet signed by a representative of the prime sponsor and the Grant Officer.

§ 97.122 Modification of Comprehensive Manpower Plan.

(a) General There are three types of modifications to Comprehensive Manpower Plans which may be proposed by the prime sponsor. The Secretary may also require modifications as described in paragraph (e) of this section or certain key information as described in paragraph (f).

(b) Major comprehensive manpower plan modification.

(1) When a comprehensive manpower plan modification meets one of the following conditions, it will be considered to be a major plan modification:

(i) For grants of $100,000 or less:

(A) The cumulative transfer of funds among program activities or cost categories exceeds $5,000.

(B) The total number of individuals to be served, planned enrollment levels for program activities, planned placement terminations, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more.

(ii) For grants of over $100,000:

(A) The cumulative transfer of funds among program activities or cost categories exceeds $10,000 or 5 percent of the total grant budget, whichever is greater.

(B) The total number of individuals to be served, planned enrollment levels for program activities, planned placement terminations, or individuals to be served within significant client groups is to be increased or decreased by 15 percent or more

(2) A prime sponsor desiring a major modification shall submit a revised Program Planning Summary and Budget Information Summary and a narrative explanation of the proposed changes to the Grant Officer and shall provide for comment pursuant to § 97.115. If the proposed changes result in changes to the narrative, rewritten portions of the narrative shall also be submitted. The Grant Officer shall notify the prime sponsor of final approval or of tentative disapproval within 10 days of receipt of the proposed modification. Final Grant Officer action on disapproval shall be taken within 30 days of the receipt of the proposed modification.

(c) Minor plan modification. A prime sponsor may make any change in its Program Planning Summary and Budget Information Summary which is not set out in paragraph (b) of this section without prior approval but must show any such change in the first quarterly progress report submitted to the Division of Indian Manpower Programs after the change has been made. At the same time this report is submitted, an updated Program Planning Summary and Budget Information Summary must also be submitted. Only those lines and columns affected by the modification shall be shown.

(d) Narrative modification. When a prime sponsor proposes a change in a portion of its narrative plan which does not reflect a change on the Program Planning Summary, it may submit such a modification to the Director, Division of Indian Manpower Programs for approval and incorporation into its approved plan. A narrative modification must be submitted prior to the following items of narrative being changed:

(1) Any change in the allowance payment system, including, but not limited to, any change in the condition for waiving allowances.

(2) Any substantial change in the program design.

(e) DOL required modification. After consultation with a prime sponsor, a modification may be required by the DOL if necessary to assure compliance with applicable regulations and the approved plan. A modification shall also be required to describe any changes in the individuals authorized to disburse funds and/or sign grant documents for and on behalf of the prime sponsor. DOL may execute unilateral modifications to extend the period of operations of a grant. Such extensions shall be followed by a subsequent jointly signed modification which will incorporate into the grant any changes in the program resulting from such an extension.

(f) Prime sponsors must notify the Division of Indian Manpower Programs whenever there is a change in a project leadership, address, name, or other significant information.

PROGRAM OPERATION

§ 97.130 Program operation in general.

Sections 97.130–97.142 set out the operation requirements programs under Section 302 of the Act.

§ 97.131 Basic responsibilities of prime sponsors.

A prime sponsor shall be responsible for:

(a) Compliance with plans and assurances;

(b) Compliance with this subpart;

(c) Establishing priorities for granting assistance, taking into account the needs of the economically disadvantaged, unemployed and underemployed residing within its jurisdiction;

(d) Designing program operating activities which are, to the maximum extent feasible, consistent with every participant's fullest capabilities and will lead to employment opportunities enabling every participant to become economically self-sufficient and will contribute to the occupational development or upward mobility of every participant;

(e) Advising all participants of their rights and responsibilities prior to entering the program; and

(f) Making maximum efforts to comply with the provisions of the Program Planning Summary.

§ 97.132 Eligibility for participation in a title III, section 302, program.

(a) (1) An Indian or other person of native American descent who is economically disadvantaged, unemployed, or underemployed may participate in a program offered by the prime sponsor provided persons have their residence within the area covered by the prime sponsor's comprehensive plan.

(2) The term "residence" shall refer to an individual's permanent dwelling place or home. In determining whether a particular place is an individual's dwelling place or home, the intention of the individual is the key element. An "address" is not necessarily the same as a dwelling place or home.

(b) Permanent resident aliens who meet the eligibility requirements of paragraph (a) of this section may participate in a program if such participation is consistent with Indian tribal law or at the option of the prime sponsor.

(c) A Title II participant who meets the eligibility requirements of paragraph (a) of this section for whom maximum efforts have been made to find unsubsidized employment, or for whom supplemental training is needed as a prerequisite to a job, may be transferred into a Section 302 program without an intervening period of unemployment. A Title II participant may also be concurrently enrolled in a Section 302 program to receive services as an adjunct to the participant's Title II public service employment position (sec. 205(c) (14) and (19)).

(d) Indians and persons of native American descent who meet the requirements of paragraph (a) of this section and who are identified by such terms as "landless" or "terminated" are eligible to participate. Such groups and individuals include, but are not limited to: the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Lumbees in North Carolina, the Passamaquoddys and Penobscots in Maine, and the Eskimos and Aleuts in Alaska.

(e) Prime sponsors will give special consideration to the needs of qualified special and disabled veterans and veterans of the Vietnam-era who meet the requirements of paragraph (a) of this section.

(f) No special consideration because of kinship or family relationships with tribal or other officials may be given to persons applying for participation.

(g) Prime sponsors shall make the final determination as to who shall participate, provided that such participants meet the requirements of paragraph (a) of this section. Enrollment from outside the prime sponsor's jurisdiction shall only be done after consultation with the prime sponsor who has jurisdiction over the outside area and after advance approval by the Division of Indian Programs, which shall be assured that the circumstances justify such an action.

§ 97.133 Types of manpower program activity available.

(a) A prime sponsor may provide any type of manpower program activity which is consistent with the purposes of the Act. Such program activities may include, but are not limited to, the development and creation of job opportunities, and training, education and other services needed to enable an individual to secure and retain employment at his or her maximum capacity.

(b) A prime sponsor shall, consistent with these regulations, determine the operating levels and program activities in its area.

(c) A prime sponsor may, except as required in paragraph (c) (8) of this section, run manpower programs which include, but are not limited to:

(1) *Classroom training.* (i) This program activity may include training conducted in an institutional setting designed to provide participants with the technical skills and information required to perform a specific job or group of jobs. It may also include training designed to enhance the employability of participants by upgrading basic skills, through the provision of courses in, for instance, remedial education (such as manpower training, as provided by Indian Action Team Programs), training in the primary language of persons of limited English-speaking ability, or English-as-a-second-language training.

(ii) Any occupational training, for example, Indian Action Team Program skill training, shall be designed for occupations in which skill shortages exist (Sec. 105(a) (6)) and for which there is reasonable expectation of employment (Sec. 703(10)). To make such determinations the prime sponsor should use available community resources such as local SESA offices and the National Alliance of Businessmen.

(iii) Allowances and other benefits as provided in § 97.134 may be paid to participants receiving training or education, except that such allowances may not be paid for any course having a duration in excess of 104 weeks.

(2) *On-the-job training.* (i) On-the-job training (OJT) is training conducted in a work environment designed to enable individuals to learn a bona fide skill or qualify for a particular occupation through demonstration and practice or both. Such training may be conducted on a "hire first, train later" basis, or on a basis of ultimate placement with an employer other than the training organization. OJT may involve individuals at the entry level of employment or be used to upgrade individuals into occupations requiring higher skills. OJT shall be designed to lead to the maximum development of participants' potentials and to their economic self-sufficiency.

(ii) Inducements to employers. Prime sponsors may provide payments or other inducements to public or private employers for bona fide training and related costs provided that payments to employers organized for profit are made only for recruiting, training and supportive services over and above those normally provided by the employer. Direct subsidization of wages for participants employed by private employers organized for profit is not an allowable expenditure.

(iii) Labor organization consultation. Appropriate labor organizations should be consulted in the design and conduct of on-the-job training programs at worksites governed by collective bargaining agreements.

(3) *Public Service Employment (PSE).* (i) Public service employment is subsidized employment with public and private nonprofit employers. This program activity may also include training, manpower services and other services incident to such public service employment. Program operations and allowable Federal costs applicable to PSE are found at 29 CFR Part 96, subpart C and sections 98.12 and 98.13, respectively.

(ii) Participants' benefits. Wages and benefits for persons in a public service employment program shall be as provided in 29 CFR 96.34.

(4) *Work experience.* (i) Work experience is a short-term work assignment with a public or private nonprofit employing agency designed to enhance the future employability of a youth or to increase the potential of adults in obtaining a planned occupational goal. Work experience shall be a subsidized employment activity, however, it may not be used as a substitute for public service employment. Prime sponsors shall describe in their narrative the basic design of their work experience programs, including the characteristics of the participants who will participate in a work experience activity, the objectives, duration, and expected outcomes of the activity.

(ii) Work experience activities for youth may include part-time employment for students attending school, short-term employment for students during the summer, short-term employment for youth in transition from school to a job setting; short-term employment for recent graduates; and short-term or part-time employment for youth who have no definite occupational goal and for whom no training or job opportunity immediately exists.

(iii) Work experience activities for adults may include part-time or short-term employment for the chronically un-

employed, retired persons, recently discharged military individuals, institutional residents and inmates, and others who have not been working in the competitive labor population for extended periods of time. In addition, it may include part-time or short-term employment while a definite occupational goal, training or job opportunity is being developed.

(iv) Program outcomes for work experience participants may include return to school; enlistment in the military services; and enrollment in manpower training aimed at placement in subsidized or unsubsidized employment.

(v) Work experience in the private for profit sector is prohibited.

(vi) Participant benefits. Each participant in a work experience activity shall receive wages. Wages shall be based on such factors as the type of work performed, the geographical region of the program, and the skills and proficiency of the participant, provided that a participant's hourly wage of pay shall be at least the higher of the minimum rate prescribed by State or local law for similar employment or the minimum hourly wage set out under Sec. 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Participants in work experience activities shall be provided workers' compensation and other fringe benefits at the same level and to the same extent as other similarly situated employees of the employer. They shall also receive appropriate manpower services.

(5) *Services to participants.* Such services are designed to provide supportive and manpower services which are needed to enable individuals to obtain employment or retain employment or to participate in other manpower program activities leading to their eventual placement in unsubsidized employment. Services to participants may include, but are not limited to:

(i) *Manpower Services.* (A) Outreach;
(B) Intake and assessment;
(C) Orientation;
(D) Counseling;
(E) Job development;
(F) Job placement; and
(G) Transportation.

(ii) *Supportive Services.* (A) Health care and medical services;
(B) Child care;
(C) Residential support;
(D) Assistance in securing bonds;
(E) Family planning services, provided that a participant wants such services and such services are not a prerequisite for participation in, or receipt of, any other services or benefits from the program;
(F) Legal services; and
(G) Loans to participants to enable them to accept employment.

(iii) *Post-placement services.* Manpower and supportive services may be provided for up to 30 days to participants who have been placed in unsubsidized employment to aid them in retaining employment.

(iv) *Participant benefits.* Allowances as described in § 97.134 may be paid to a participant enrolled in services to participants when this activity is a part of an activity described in § 97.133(c) and when this activity is a participant's only scheduled one.

(6) *Other manpower activities.* (i) The comprehensive manpower plan must describe the basic design of other proposed manpower activities and the objectives to be accomplished thereby. Such activities may include, but are not limited to:

(A) Removal of artificial barriers to employment;
(B) Job restructuring;
(C) Revision or establishment of merit systems; and
(D) Development and implementation of affirmative action plans.

(ii) Participant benefits. Allowances as described in § 97.134 may be paid to a participant enrolled in other manpower activities when such activities are a component of another activity or when such activities are regularly scheduled as the only activities in which the participant is enrolled.

(7) *Combined activities.* (i) A participant enrolled in any activity funded under this subpart may be enrolled simultaneously in any other activity as a component of the participant's primary activity. The primary activity is the activity in which the participant is enrolled for more than 50 percent of the scheduled time.

(ii) Participant benefits. A participant enrolled in a primary activity for which wages are paid, and simultaneously in an activity for which allowances are payable, may be paid wages for all hours of participation.

(8) *Special programs for persons of limited English-language speaking ability.* When persons of limited English-language speaking ability constitute a significant portion of a prime sponsor's program participants, the prime sponsor shall establish operating procedures to:

(i) Teach occupational skills in their primary language for occupations which do not require a high proficiency in English;

(ii) Develop new employment opportunities for them;

(iii) Develop opportunities for their promotion if they are in an existing employment situation;

(iv) Disseminate appropriate information and provide job placement and counseling assistance in their primary language;

(v) Conduct training and employment programs in their primary language; and

(vi) Conduct programs designed to increase their English-language speaking ability.

§ 97.134 Training allowances.

(a) *The payment system.* Each prime sponsor, in order to assure accountability and uniformity, to facilitate necessary coordination with other programs, and to ensure prompt and efficient payment shall maintain a standard system for payment of allowances. In selecting the delivery system, the prime sponsor should give consideration to the use of agencies such as the Unemployment Insurance System which have experience in operating an allowance payment system. The payment system shall include the following elements:

(1) Determination of entitlement to allowances and computation of the amount to be paid;

(2) Issuance and distribution of payments;

(3) Maintenance of payment records and preparation of required reports;

(4) Detection and collection of overpayments; and

(5) Arrangements with other agencies to obtain necessary information to minimize unauthorized payments. This shall include arrangements with:

(i) The State employment security agency for verification of unemployment compensation benefits;

(ii) Local welfare agencies for verification of public assistance payments;

(iii) Training facilities for submittal of payment requests and certification of attendance; and

(iv) Other units of government for verification of training allowances under other Federal, State or local programs.

(b) *Eligibility for allowances.* Allowances may be paid to participants for time spent in classroom training, other activities as specified in § 97.133(c)(6), or manpower services such as: assessment, orientation, counseling, and transportation. However, allowances for participation in manpower services or other activities may be provided only if such participation is on a regularly scheduled basis as described in the approved comprehensive manpower plan. No allowances will be paid for any course under the classroom training activity having a duration in excess of 104 weeks (Sec. 111(a)).

(c) *Application for unemployment compensation.* As appropriate, participants should be encouraged to apply for unemployment compensation benefits as defined in § 97.103, if they are not already receiving such benefits.

(d) *Basic allowances.* A basic allowance for one week shall equal, at least, the higher of:

(1) The minimum hourly wage prescribed by State or local law for employment in the prime sponsor's area multiplied by the number of hours of participation for which the trainee attends or is absent for good cause; or

(2) The minimum hourly wage set out under Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours of participation for which the trainee attends, or is absent for good cause; except that for the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa, the provisions of the Fair Labor Standards Act applicable to those areas shall pertain. To compute the number of hours of participation, the prime sponsor may count time spent in classroom training, services to participants, or other activities as specified in § 97.133(c)(5) and (6).

(e) *Dependents' allowances.* Dependents' allowances of $5 per week for each dependent over two, up to a maximum of four additional dependents, for a total maximum of $20 for six or more dependents, shall be provided to participants in

activities for which basic allowances are paid. Participants eligible for dependents' allowances who also receive dependents' allowances from other sources shall not be precluded from receiving dependents' allowances.

(f) *Incentive allowances for persons receiving public assistance or who are in institutions.*

(1) Incentive allowances, at the rate of $30 per week, in lieu of basic allowances, shall be paid to participants receiving public assistance, or whose needs or income are taken into account in determining such public assistance payments to others. Incentive allowances may be reduced pro rata for absences from program activities without good cause.

(2) Incentive allowances, in lieu of basic allowances, but not in excess of such allowances, may be paid to institutionalized persons, including prison inmates participating in program activities for which allowances are paid. The determination as to whether such allowances will be paid, and the amounts thereof, shall be made by the prime sponsor in consultation with officials of the institutions. In the case of prison inmates, all or part of such payments may be held in reserve and delivered upon the participant's release from the institution.

(g) *Additional allowances.* Additional reasonable allowances may be paid to participants to cover extraordinary costs associated with participation. The circumstances in which additional allowances will be paid shall be described in the comprehensive manpower plan.

(h) *Adjustments in allowances.*

(1) The basic allowance shall be reduced, on a weekly basis, by the amount of unemployment compensation payments, if any, received by the participant.

(2) No basic allowance to which an individual may otherwise be entitled shall be diminished in any respect because of receipt of a separation payment provided under any collective bargaining agreement.

(3) An individual's basic allowance may be adjusted upward to the degree that the local cost of living exceeds the national norm, if conditions for such increases are described in the comprehensive manpower plan.

(4) Periodic increases to the basic allowance may be provided as an incentive to participation when such increases are described in the comprehensive manpower plan.

(i) *Waivers of allowance payments.*

(1) The Secretary may permit a prime sponsor to waive the payment of all or part of the basic allowance for all participants in a specific course or project under conditions described in the comprehensive manpower plan if:

(i) The waiver will not have the effect of denying participation to individuals who could not participate without receipt of the basic allowance; or

(ii) the waiver will increase the number of individuals served; or

(iii) the waiver will otherwise promote the purposes of the Act; and

(iv) all participants for whom basic allowances are waived are so notified in writing.

(2) Individual waiver of the basic allowance, if provided for in the comprehensive manpower plan, may be granted if:

(i) The waiver is at the written request of the participant; and

(ii) all of the funds allocated in the program planning summary for basic allowances have been obligated and training opportunities are still available.

(3) The dependents' allowance may not be waived except when the participant's entire basic allowance is waived.

(4) Allowance payments may not be waived solely because a participant is a veteran and receives benefits through the Vietnam Era Veteran's Readjustment Assistance Act, as amended.

(j) *Repayments.* Prime sponsors may require participants to repay the amount of any overpayment of allowances under this part except that, if the overpayment was made without fault on the part of the participant, and if such recovery would be against equity and good conscience or would otherwise defeat the purposes of the program, repayment shall not be required. Any overpayment not repaid when requested may be set off against any future allowance or other benefits to which the participant may become entitled.

§ 97.135 Wages; minimum duration of training and reasonable expectation of employment.

(a) *Wages.* (1) Participants in public service employment programs shall be paid wages, as described at 29 CFR 96.34.

(2) Participants in work experience shall be paid wages pursuant to § 97.133 (c)(4)(vi).

(3) Participants in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as are reasonable, considering such factors as the nature of the industry, geographical region, and trainee proficiency. In no event shall the rate be less than the highest of:

(i) The minimum wage rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended;

(ii) The State or local minimum wage for the most nearly comparable employment covered by the State or local minimum wage law;

(iii) The prevailing rates of pay for persons employed in similar positions by the same employer; or

(iv) The minimum entrance rate for inexperienced workers in the same occupation in the establishment or, if the occupation is new to the establishment, the prevailing entrance rate for the occupation among other establishments in the community or area; or

(v) The minimum rate required by an applicable collective bargaining agreement.

(4) For hours spent in the production of goods or services, the rate of compensation to be paid to participants by employers, public or private, shall be specified in a written agreement between the training or employing facility and the prime sponsor.

(b) *Duration of training.* An individual shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation (Sec. 703(8)).

(c) *Reasonable expectation of employment.* An individual shall not be referred to training unless the prime sponsor determines, after using available and appropriate community resources, that there is a reasonable expectation of employment for the individual in the occupation for which he or she is being trained.

§ 97.136 General benefits and working conditions for program participants.

(a) Each participant in an on-the-job training, work experience or public service employment program under this subpart shall be assured of appropriate workers' compensation, health insurance, unemployment insurance and other benefits at the same levels and to the same extent as other employees in the same employment situation, and to the same working conditions and promotional opportunities. Each participant in a classroom training program and participants enrolled in services to clients and other activities shall be assured appropriate insurance comparable to the coverage which would be provided by workers' compensation if they were eligible for such compensation. The cost of this insurance shall be charged to administration.

(b) No prime sponsor, subgrantee or employing agency may select, reject, or promote a participant based on that individual's political affiliation or beliefs.

(c) No program under this part may involve the construction, operation, or maintenance of any facility used or to be used for sectarian instruction or as a place of religious worship.

§ 97.137 Prime sponsor review.

Each prime sponsor shall establish a procedure for resolving any issue arising between it and a participant. This procedure shall include an opportunity for an informal conference and for a prompt determination of any issue which has not been resolved by the conference. The procedure shall also include a notice to the participant setting forth the ground for any adverse action proposed to be taken by the prime sponsor against a participant and giving the participant an opportunity to respond. Determinations made as a result of this process shall be provided to the participant in writing along with a copy of the procedures by which the participant may appeal the determination as set forth in §§ 97.190–97.199.

§ 97.138 Non-Federal status of participants.

Participants in programs under this subpart are not Federal employees and are not subject to the provisions of law

relating to Federal employment including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

§ 97.139 Retirement benefits for participants.

(a) Expenditures may be made from program funds for payments under the Social Security Act.

(b) Expenditures for retirement fund payments for participants may be made if:

(1) Payments are for retirement benefits that are part of a consolidated package, including such benefits as health insurance and workers' compensation, if separation of the benefits is not allowed;

(2) Payments are for participants who are immediately hired as regular employees as defined by the employer (that is who attain regular employee status, although their salary is subsidized by program funds);

(3) Payments are for participants whom the employing agency or another employer intends to hire into permanent jobs at some future date, provided that:

(i) Payments are made into and retained in a reserve account, and are not paid into the retirement fund until the participant has acquired regular employee status; and

(ii) If regular employment occurs with other than the employing agency, retirement fund payments may be allowed only if the participant is employed within the State, and the retirement benefits are portable; or

(4) Payments are for retirement benefits required by Federal, State, or local law, or for retirement plans set up by State or local law which do not permit the exclusion of participants from coverage.

§ 97.140 Training for lower wage industries; relocation of industries.

(a) No participant may be enrolled in any program or activity in any low wage industry in jobs for which prior skill or training is typically not a prerequisite for hiring and in which labor turnover is high.

(b) No funds under this subpart may be used to assist in the relocation of any establishment from one area to another unless the Secretary determines that the relocation will not result in an increase in unemployment in the original location or in any other area where a business enterprise or a company related to the relocating establishment conducts business operations (Sec. 704(a)).

§ 97.141 Prime sponsor contracts and subgrants.

(a) Contracts. Contracts may be entered into between the prime sponsor and any party, public or private, for purposes set forth in an approved comprehensive manpower plan.

(b) Subgrants. Subgrants may be entered into only between the prime sponsor and units of State and local general government, Indian government, public agencies or nonprofit organizations.

(c) Prime sponsor responsibility for development, approval, and operation of contracts and subgrants. The prime sponsor is responsible for the development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, the regulations promulgated under the Act, and other applicable law. It shall also require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant (Sec. 105(a)(1)(B)).

(d) Cancellation. If a contractor or subgrantee does not comply with any requirement of the Act, the regulations promulgated under the Act, and other applicable law, the prime sponsor shall cancel the contract or subgrant. The prime sponsor may cancel for noncompliance with additional conditions established in the contract or subgrant.

(e) Continuity of service when contract or subgrant is cancelled. If a contract or subgrant is cancelled, the prime sponsor shall develop procedures for assuring continuity of service to participants and provide adequate notice to affected staff of the change.

(f) Contracts and subgrants termination dates. The prime sponsor may not enter into contracts or subgrants which extend past the termination date of the prime grant.

(g) Indian prime sponsors may also require that subgrantees and contractors agree to hire qualified Indians to the maximum extent feasible and in accordance with 42 USC 2000e-2(i) to provide the services called for by the subgrant or contract.

§ 97.142 Cooperative relationships between prime sponsor and other manpower agencies.

(a) Each prime sponsor, to the extent feasible, shall establish cooperative relationships or linkages with other manpower and manpower-related agencies in its jurisdictions, especially with agencies operating programs funded through the Department.

(b) Prime sponsors, to the extent feasible, shall notify the appropriate apprenticeship agencies of training activities in apprenticeable occupations.

(c) Each prime sponsor, in providing services to recipients of Aid to Families With Dependent Children (AFDC), shall coordinate such services with the local sponsor of the Work Incentive Program, if any, to insure the maximum benefit to the participants.

GRANT ADMINISTRATION

§ 97.150 Grant administration in general.

(a) Sections 97.150 through 97.170 contain requirements relating to the administration of grants by prime sponsors.

(b) The Secretary will provide each prime sponsor with technical assistance guides to enable them to comply with the requirements of sections 97.150 through 97.190.

§ 97.151 Payment.

Advance payments will be made by either a letter of credit or by U.S. Treasury check to prime sponsors that demonstrate the willingness and ability to establish procedures which will minimize the time between the transfer of funds to them and their disbursement of such funds.

§ 97.152 Letter of credit.

Grants will be financed by means of a letter of credit when the following conditions are met:

(a) The grant is for $250,000 or more;

(b) A continuing relationship has existed between the Secretary and the prime sponsor for at least 12 months;

(c) The prime sponsor can assure the Secretary that the timing and amount of drawdowns will be as close as possible to disbursement needs;

(d) The prime sponsor's accounting system meets the recordkeeping and reporting requirements of this subpart.

§ 97.153 Payment by Treasury check.

(a) A prime sponsor which is not paid by letter of credit will be paid by Treasury check. The Secretary will determine whether such payment will be made on advance or reimbursement basis. In making such a determination, the Secretary will consider the adequacy of the prime sponsor's accounting and recordkeeping system with regard to items 3b and 3c of Attachment J of FMC 74-7.

(b) Advance by Treasury check will use predetermined payment schedules or, upon the request of the prime sponsor provided that such request is agreed to by the national office, Division of Indian Manpower Programs.

§ 97.154 Financial management systems.

(a) Each prime sponsor, subgrantee and contractor shall maintain a financial management system which will provide accurate, current and complete disclosure of the financial transactions under each grant, subgrant or contract activity, and will enable each prime sponsor, subgrantee or contractor to evaluate the effectiveness of program activities and meet the reporting requirements of this subpart.

(b) Each prime sponsor, subgrantee and contractor shall maintain its financial accounts so that the reports required by the Secretary may be prepared therefrom.

(c) To be acceptable for audit under this subpart a Report of Federal Cash Transactions and a Financial Status Report shall be:

(1) Current as of the cut-off date of the audit;

(2) Taken directly from or linked by worksheet to the prime sponsor's books of original entry; and

(3) Traceable to source documentation of the unit transaction.

(d) In cases in which the prime sponsor's records are unauditable, the auditor shall submit a letter to the contracting officer within ten days of a determination of unauditability delineating the

reason therefor and delineating the action required to place the records in auditable condition.

§ 97.155 Audit and evaluation.

(a) The Secretary of Labor, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the prime sponsors and their subgrantees and contractors which are pertinent to grant programs for the purpose of making surveys, audits, examinations, excerpts and transcripts (Sec. 713(2)).

(b) The Secretary shall survey, audit or examine, or arrange for the survey, audit or examination of prime sponsors and their subgrantees and contractors by certified or licensed public accountants. Such surveys, audits, or examinations shall normally be conducted annually and shall be conducted at least once every 2 years.

(c) Surveys and audits will conform to the standards for Audit of Government Organizations, Programs, Activities, and Functions, issued by the Comptroller General of the United States and technical assistance guides issued by the Secretary. Surveys, audits or examinations arranged for by the Secretary will conform, at a minimum, to the first element of the Comptroller General's Standards: An audit to determine (1) whether financial operations are properly conducted; (2) whether the financial reports are fairly represented; and (3) whether the available information indicates that the prime sponsor, contractor, or subgrantee has not complied with applicable laws, regulations and administrative requirements. Federal audits will also, from time to time, include reviews of the economy and efficiency and/or program results of CETA programs. A report including appropriate recommendations will be issued to the Manpower Administration. Existing audit systems, where acceptable under the Comptroller General's Standards, will be used to the maximum possible extent (Sec. 713(1)).

(d) Each prime sponsor shall arrange for an independent audit of each of its contractors and subgrantees at least once every two years. Audits may be conducted by the prime sponsor, by State and local government audit staffs, or by certified public accountants and audit firms under contract to the prime sponsor. All audits performed or arranged for by the prime sponsor shall be conducted in accordance with the provisions of paragraph (c) of this section and shall not be subject to prior approval by the Division of Indian Manpower Programs.

(e)(1) Upon making a new grant or a significant increase in the funding level of an ongoing grant, the Assistant Secretary for Manpower may request the Assistant Secretary for Administration and Management to conduct a preliminary audit survey to evaluate the adequacy of the prime sponsor's accounting system and internal controls as established by these regulations.

(f)(1) On the basis of the findings, conclusions and recommendations of the audit survey or audit, the prime sponsor will be advised in writing of what action, if any, is needed to satisfy Department of Labor requirements.

(2) If major deficiencies are disclosed, the grant may be suspended. In the event of suspension, the grantee will be given a specified amount of time (not to exceed six months) in which to take corrective action. If the prime sponsor fails to take corrective action within the time allowed, the grant will be terminated.

(g)(1) Audit reports shall be written in the format prescribed by the Department of Labor Audit Program or the Comptroller General. Previous audit reports considered relevant and the full text of any sponsor's comments will be included as an appendix to the report.

(2) Department of Labor audit reports will be distributed to the Secretary by the appropriate Assistant Regional Director of Audit.

(3) Prime sponsors shall respond in writing to the findings, conclusions and recommendations of an audit report when notified to do so by the Department of Labor. Unless an extension of time is expressly granted by the Secretary, the response shall be submitted to the Director, Division of Indian Manpower Programs, with a copy to the appropriate Assistant Regional Director of Audit within thirty calendar days from the date of Department of Labor notification to the prime sponsor of the findings and recommendations.

(4) The prime sponsor may take exception to particular audit findings and recommendations. The rationale for such exceptions should be included in the prime sponsor's response. The response should point out any corrections already made and any action which is proposed and the estimated completion date of such action.

(5) The Department of Labor will consider the prime sponsor's response when determining if specific expenditures should be disallowed. The Director, Division of Indian Manpower Programs, will notify the prime sponsor in writing of any determination to allow or disallow expenditures.

§ 97.156 Reporting requirements in general.

Each prime sponsor shall submit periodic reports which will be used by the Secretary to assess its performance. These reports are the Program Status Summary, Financial Status Report, the Summary of Participant Characteristics Report, and the Report of Federal Cash Transactions (Secs. 313(b) and 713). Detailed descriptions of these forms are in the Forms Preparation Handbook.

§ 97.157 Quarterly Progress Reports.

(a) Quarterly Program Status Summary and Financial Status Summary reports are the quarterly progress reports which will be used to measure accomplishments in achieving objectives stated in the Program Planning Summary. They will also constitute the prime sponsor's statement of costs incurred and contain its certification of the correctness of the costs reported.

(b) A prime sponsor shall include the following items in the program status summary report together with a comparison of the same items as they appear in the program planning summary for the period of the report:

(1) The total number of participants served;

(2) The total number of participants placed in unsubsidized employment on termination from the project and the number entering school, other training or military service;

(3) The level of participation in program activities;

(4) The distribution of total accrued expenditures by cost categories; and

(5) The distribution of services among significant segments of the population being served by the program.

(c) If the Secretary determines that performance goals are not being achieved in accordance with the plan, he may request additional information from the prime sponsor, including reasons for the failure to achieve the goals.

(d) The quarterly progress reports will also permit prime sponsors to report on objectives and accomplishments other than those established by the Secretary. If a prime sponsor elects to include these other activities in its report, they will be used by the Secretary in his evaluation of the performance of the prime sponsor's program.

(e) The prime sponsor will prepare quarterly progress reports at the end of Federal fiscal year quarters and will send them to the Secretary soon enough to be received no later than thirty days after the end of each quarter. If a prime sponsor's grant period ends on a date other than the last date of a Federal fiscal year quarter, a fifth report, covering the entire grant period, shall be submitted.

(f) Copies of quarterly progress reports shall be sent by the prime sponsor to the appropriate Governor(s).

(g) The Secretary may require submittal of quarterly progress reports by prime sponsors more frequently than quarterly in cases of major deviation from the program planning summary.

(h) Specific procedures for meeting these reporting requirements will be furnished to each prime sponsor in the Forms Preparation Handbook.

§ 97.158 Summary of Participant Characteristics Report.

(a) The Summary of Participant Characteristics Report contains aggregate characteristics data on all participants in the program. The summary is to be submitted to the Secretary with the quarterly progress reports.

(b) The summary will include characteristics data for those who terminated from the program and for those who entered unsubsidized employment.

(c) The summary will also aggregate wages before enrollment in the program and after placement and show the median wage of participants for these two categories.

§ 97.159 Report of Federal Cash Transactions.

(a) Each prime sponsor shall submit, as indicated below, a report of Federal Cash Transactions. The report will be used by the Secretary to monitor cash advances and to obtain disbursement information. This report shall be submitted monthly by each prime sponsor under Section 302 receiving annual grants totalling $1 million or more and quarterly by all other prime sponsors (Sec. 713(1)).

§ 97.160 Reallocation of funds.

(a) *General.* The Secretary may reallocate funds from one prime sponsor to another under the circumstances and in accordance with the procedures described in this section (Sec. 702(b)).

(b) *Reallocation based on nonperformance.* (1) When the Secretary determines, through review of the prime sponsor's reports, monitoring or auditing, that the prime sponsor's performance may be inadequate or that it may have failed to comply with the Act or regulations, he shall review the situation with the prime sponsor to determine if a reduction in the grant can be mutually agreed to. If it can, the Secretary shall proceed to modify the grant to reduce the total funding level and to reallocate, at his discretion, the funds made available by this action. If such an action cannot be mutually agreed to, the Secretary shall give due notice and opportunity for a public hearing as provided in § 97.196.

(2) If the Secretary thereafter decides to reallocate the prime sponsor's funds, he shall:

(i) Revoke the prime sponsor's plan for the area, in whole or in part;

(ii) Make no further payments to the prime sponsor, to the extent he deems necessary; and

(iii) Notify the prime sponsor of the amount of funds to be returned from unexpended funds paid to the grantee during that fiscal year.

(3) The Secretary shall then reallocate the funds, preferably to another prime sponsor in the State, or to the State, to service the area which was served by the first prime sponsor, or the Secretary may serve the area directly (see § 97.120).

(c) *Reallocation based on need.* (1) In some circumstances the Secretary may determine that the unobligated portion of a prime sponsor's grant should be reallocated to a prime sponsor in another area because the funds are not needed where they were originally allocated. Such reallocations may be made only after the ninth month of the fiscal year for which the grant was made.

(2) Before reallocating funds pursuant to paragraph (c)(1) of this section, the Secretary must determine that:

(i) The prime sponsor's plan will be carried out without expending all the funds previously made available for that plan; and

(ii) The excess funds cannot reasonably be expected to be needed in the following grant period.

(d) *Reallocation.* When the Secretary determines that funds should be reallocated pursuant to paragraph (c) of this section, he will:

(1) Notify the prime sponsor and the appropriate Governor(s) of the proposed removal of funds from the grant and the reasons therefor. The notice shall also invite the prime sponsor and the Governor(s) to submit comments on the proposed reallocation. Such comments must be submitted to the Secretary within thirty days of receipt of the notice.

(2) After reviewing any comments submitted by the prime sponsor and/or Governor(s), the Secretary will notify them of his decision. A final decision to reallocate funds of a prime sponsor applicant will be published in the FEDERAL REGISTER.

(3) In reallocating on the basis of need, the Secretary shall first consider the need for additional funds by other prime sponsors within the same State. A decision to increase a prime sponsor's grant with reallocated funds will not be made without prior consultation with the prime sponsor as to how the funds will be expended and prior notification to the Governor. Such a decision will be published in the FEDERAL REGISTER with an announcement of the prime sponsor(s) receiving additional allocations and the amounts.

§ 97.161 Allowable Federal costs.

(a) *General.* Costs may be incurred only to increase the employability of participants. Except as modified by these regulations, Federal funds granted under the Act may be expended only for purposes permitted under the provisions of Part 1–15 of Title 41 of the Code of Federal Regulations. 41 CFR 1–15.2 applies to commercial and nonprofit organizations. 41 CFR 1–15.3 applies to educational institutions, and 41 CFR 1–15.7 applies to State and local governments. Allowable costs include both direct and indirect costs.

(1) *Direct costs.* Direct costs under this subpart are those which can be specifically identified with activities under this subpart. The method of apportioning direct costs among projects, program activities, or cost categories must be documented. Procedures for classifying and charging direct costs must be uniform in order to preclude overcharges.

(2) *Indirect costs.* Indirect costs are those incurred jointly for activities under this subpart and other activities on behalf of the recipient, and those not readily assignable to specific activities under this subpart. Indirect costs must be supported by a cost allocation plan and/or an indirect cost proposal, which shall include an indirect cost pool.

(3) *Policies and procedures.* Cost allocation plans and indirect cost proposals shall be developed and approved in accordance with the cost principles and procedures set forth in 41 CFR Part 1–15. The DOL must approve in advance all prime sponsors' indirect costs to be charged to grants under this subpart. The reasonableness of indirect costs will be determined pursuant to 41 CFR Part 1–15.7 (FMC 74.4).

(b) *Restriction on use of funds.* (1) Federal funds used for public service employment programs under this subpart shall not be used for the acquisition of or the rental or leasing of administrative supplies, equipment, materials or real property, either as a direct cost or an indirect cost. Training materials, work tools, uniforms or other equipment ordinarily provided by the employer to his regular employees, and which are for the benefit and ownership of the participants, may be considered fringe benefit costs for public service employment participants. If such supplies are not ordinarily furnished to regular employees, the prime sponsor may not use grant funds designated for wages and fringe benefits to finance them (Sec. 208 (a)(7)).

(2) No funds granted under this subpart may be used, directly or indirectly, as a matching contribution for the purpose of obtaining Federal funds under any other law of the United States which requires a contribution from the grantee in order to receive such funds, unless this is authorized under that law. Funds granted under this subpart, however, may be used as a matching contribution in order to obtain additional funds under this subpart.

(c) *Expenditures for repairs, maintenance and capital improvements and construction.* (1) Funds under this subpart may not be expended for new construction except as part of a training program in a construction occupation (including additions to existing facilities), but may be expended for building repairs, maintenance and capital improvements to existing facilities. These costs must relate to a facility or building which is used primarily for programs under the Act (Sec. 702(b)). All expenditures for repairs, maintenance, capital improvements, construction activities, purchase or renovation of real property, and acquisition of non-expendable property, must be approved by the Grant Officer in writing in advance of the expenditure (Sec. 702(b)).

(2) Training costs for projects in construction occupations may include such items as, instructor salaries, training tools and books, and allowances or wages to participants (if appropriate) but may not include materials used in construction or land acquisitions. Construction costs for training programs shall be allowable only when such construction would not normally be performed by an outside contractor.

(d) *Allowable cost categories.* Allowable costs shall be reported against the following cost categories: administration; wages; training; fringe benefits; allowances; and services.

(1) Costs are allowable to a particular cost category to the extent of benefits received by such category.

(2) All grantees are required to plan, control, and report expenditures against the cost categories.

(e) *Classification of costs by category.* The following principles shall be fol-

lowed in classifying costs by cost category:

(1) Participants' wages shall be charged to wages;

(2) Participants' fringe benefits shall be charged to fringe benefits;

(3) Allowances paid to program participants shall be charged to allowances;

(4) Training costs consisting of goods and services which directly and immediately affect program participants shall be charged to training. Goods and services considered to have direct and immediate impact on participants are limited to those actually involved in the participant training process itself as opposed to those which are supportive of that process. For examples of training-related costs which may and may not be charged to training, see paragraph (f)(4) of this section.

(5) Supportive and manpower services costs consisting of goods and services which directly and immediately affect program participants shall be charged to services. Goods and services considered to have direct and immediate impact on participants are limited to those actually involved in the process of providing participants with supportive and manpower services as opposed to those which are ancillary to that process. For examples of service-related costs which may and may not be charged to services, see paragraph (f)(5) of this section.

(6) Allowable costs which do not fall into any of the above classifications will be charged to administration.

(7) When contractors bill the grantee with a single unit charge containing costs which are chargeable to more than one cost category, the grantee will endeavor to obtain the detail necessary to charge these costs to the proper cost categories. If this cannot be done, an estimate of the breakdown of the single charge among cost categories shall be obtained. Any profit (or loss) should be prorated among all the affected cost categories.

(8) Classification of equipment costs present special problems since many items of equipment can be used for various purposes. In the case of multiuse equipment, there must be a proration of cost or, if there is a predominant usage relating to one cost category, a charge shall be made to that category.

(9) Any single cost such as staff salaries and/or fringe benefits which is properly chargeable to more than one cost category should be prorated among the affected categories.

(f) *Examples of costs properly chargeable to each of the cost categories*—(1) *Wages.* All wages paid to participants receiving on-the-job training in public or private nonprofit organizations, and all wages paid to participants in transitional subsidized employment and in work experience will be allowed and be chargeable to program costs. (Wages paid to participants while receiving on-the-job training from a private employer organized for profit are not allowable costs.)

(2) *Fringe benefits.* Allowable fringe benefit costs for participants include, but are not limited to, the following: annual, sick, court and military leave pursuant to an approved leave system; employer's contribution for social security, employers' life and health insurance plans; unemployment insurance, workers' compensation insurance; retirement benefits provided such benefits are granted under an approved plan; and such training materials, work tools, uniforms, or other equipment which may be charged to the fringe benefits category under Public Service Employment programs, in accordance with 29 CFR 98.12 (b)(1).

(3) *Allowances.* All allowances paid to program participants pursuant to § 97.134 of these regulations shall be charged to this cost category.

(4) *Training.* Training costs include, but are not limited to, the following: salaries and fringe benefits of personnel engaged in providing training, books and other teaching aids; equipment and materials used in providing training to participants; and that part of entrance and tuition fees which represent instructional costs having a direct and immediate impact on participants. The following are examples of costs not properly chargeable to training: general and administrative costs of the training facility; supervision, clerical support, and training (skill maintenance and upgrading) of instructors; staff travel; rents, utilities, and other facility costs; supplies and equipment not used directly in the course of participant training; transportation of participants to training sites; and costs of processing allowance payments. The compensation of individuals who both instruct and supervise other instructors must be prorated among the training and administration cost categories on the basis of time records or other equitable means. Similarly, tuition fees and the costs of supplies used in the course of both participant instruction and other activities should be prorated among the benefitting uses.

(5) *Services.* (i) Services includes, but is not limited to, supportive and manpower services, as set forth in § 97.133 (d)(5).

(ii) Supportive services include child care, health care and medical and dental services, residential support, assistance in securing bonding, and family planning.

(iii) Manpower services include outreach, intake and assessment, orientation, counseling, job development, and job placement.

(iv) Services costs include, but are not limited to, salaries and fringe benefits of personnel engaged in providing services to participants; and that part of single unit charges for child care, health care, and other services which represent only the costs of services directly beneficial to participants. Transportation of participants is properly chargeable to services only where it cannot reasonably be considered to be merely incidental to providing employment, training, and services which themselves directly benefit participants. For example, if rural participants have to be transported over long distances in order to reach work or training sites, particularly where no public transportation service is available, the cost of chartering or purchasing a bus may be charged to services.

(v) The following are examples of costs not properly chargeable to services: general and administrative costs of the services provided; supervision, clerical support, staff training, staff travel, rent and other facility costs; and costs of supplies, materials, and equipment not used directly in providing services to participants.

(6) *Administration.* Costs properly chargeable to administration shall be limited to those necessary to effectively operate the program. They should not generally exceed 20 percent of the total planned costs for all program activities other than public service employment unless the program narrative description sets forth an explanation of how such additional costs have been determined and a detailed documentation to support that amount. Further, the larger the total allocation a prime sponsor received, the lower the total percentage of funds devoted to administration should be. The restriction on the use of funds for administration in public service employment programs is set forth in 29 CFR Part 96.36.

(i) Supportive services are comprised of general and administrative costs, overhead, and similar cost groupings representing the general management and support functions of an organization as well as secondary management and support functions at the bureau or division level. Included are salaries and fringe benefits of personnel engaged in executive, fiscal, personnel, legal, audit, procurement, data processing, communications, transportation, materials, supplies, equipment, and office space costs, and staff training and morale.

(ii) Direct program costs which are not an integral part of training and services provided participants are comprised of goods and services which neither contribute to the management and support functions of an organization nor directly and immediately affect participants. Included are direct program salaries and fringe benefits of supervisory and clerical personnel, program analysts, labor market analysts, and project directors. In addition, all costs of materials, supplies and equipment which are not solely identifiable with the provision of training and services to participants are included here as are all costs of space and staff travel identifiable with direct program effort. Some examples of administrative costs included here are the salary of a clerical assistant to an instructor, that part of an instructor's salary representing the time he spends supervising other instructors, desk-top supplies used in participant training and in general office administration, a job developer's travel costs, rent, depreciation, or maintenance of classroom training facility, consult-

ants' services under contract, not involving direct training or services to participants, and costs of providing technical assistance to contractor and subgrantee staff.

(iii) Services normally chargeable to administration when performed by staff personnel shall be charged to wages, or fringe benefits, as appropriate, when performed by program participants. When this is done, costs shall be charged to the subsidized employment program activities, either transitional or for work experience.

§ 97.162 Allocation of allowable costs among program activities.

The program activities against which program costs shall be planned, controlled and reported upon are: Classroom training, on-the-job training, subsidized transitional employment, subsidized work experience, services to participants, and other activities. The cost categories under each of these activities are defined in § 97.161(d). The extent to which these cost categories are chargeable to specific program activities is set forth below:

(a) *Classroom training.* Cost categories chargeable are: administration; training; allowances; and services.

(b) *On-the-job training.* Cost categories chargeable are: administration; training; services; wages; and fringe benefits (with public or private nonprofit employers only).

(c) *Transitional public service employment.* Cost categories chargeable are: administration; wages; fringe benefits; services; and training.

(d) *Work experience.* Cost categories chargeable are: administration; training; services; wages; and fringe benefits.

(e) *Service to participants.* Cost categories chargeable are:

(1) *Allowances.* This includes all allowances paid to participants registered for training for short period between components.

(2) *Services.* This includes all manpower and supportive services including post-placement services which are not part of another activity and which are provided to participants by a prime sponsor, contractor or subgrantee.

(3) *Administration.* This includes all allowable administrative costs directly associated with this activity and a pro rata share of each prime sponsor's administrative costs not directly associated with any specific program activity.

(f) *Other activities.* Cost categories chargeable are: administration; training; allowances; and services.

§ 97.163 Basic personnel standards for prime sponsors.

(a) Prime sponsors shall maintain adequate personnel policies and practices. Such policies and practices may be in accordance with existing procedures. Where no policies or practices exist, standards for purposes of this program shall be developed and made known to all staff hired under a Section 302 grant.

(b) Nepotism.

(1) No prime sponsor, subgrantee or contractor shall hire, or permit the hiring of, any person in a staff position, nor shall they accept any person as a participant, if a member of the person's immediate family is employed in an administrative capacity by the prime sponsor, subgrantee or contractor. For the purposes of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister. The term "staff position" includes all positions such as instructors, counselors, administrators, and suppliers of training and services. The term "employed in an administrative capacity" includes those persons who have overall administrative responsibility for a program, including: all elected and appointed officials who have any responsibility for the obtaining of and/or approval of any grant funded under this subpart as well as other officials who have any influence or control over the administration of the program, such as the project director, deputy director and unit chiefs; and persons who have selection, hiring, placement, or supervisory responsibilities for public service employment participants. The Secretary may waive this requirement if adequate justification is received that no other persons within the subgrantee's jurisdiction are eligible and available for participation or employment by the prime sponsor.

(2) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule.

§ 97.164 Adjustments in payments.

(a) If any funds are expended by a grantee, subgrantee, contractor, or employing agency in violation of the Act, the regulations or grant or contract conditions, the Secretary may make necessary adjustments in payments on account of such expenditures. He may draw back unexpended funds in order to assure that they will be used in accordance with the purposes of the Act, or to prevent further unauthorized expenditures, and he may withhold funds otherwise payable under the Act in order to recover any amount expended for unauthorized purposes in the current or immediately preceding fiscal year (Sec. 702(b)).

(b) No action taken by the Secretary under paragraph (a) of this section shall entitle the grantee to reduce program activities or allowances for any participant or to expend less during the effective period of the contract or grant than those sums called for in the Comprehensive Manpower Plan. Any such reduction in expenditures may be deemed sufficient cause for termination.

§ 97.165 Termination of grant.

(a) If a prime sponsor violates or permits a subgrantee, contractor or an employing agency to violate the regulations, or grant terms or conditions which the Secretary has issued or shall subsequently issue during the period of the grant, the Secretary may terminate the grant in whole or in part unless the grantee causes such violation to be corrected within a period of thirty days after receipt of notice specifying the violation or the determination of the Secretary, pursuant to a hearing under §§ 97.190–97.198, if a hearing has been held.

(b) In emergency situations when it is necessary to protect the integrity of any program established under the Act, the Secretary may, without a prior hearing, suspend payment and withdraw such unexpended funds as he deems appropriate under the grant and make alternate temporary arrangements to carry out the grant program. In such situations, the Secretary shall notify the grantee of his action and set a date for a prompt hearing on the matter.

(c) Termination shall be effected by a notice of termination which shall specify the extent of the termination and the date upon which the termination becomes effective. Upon receipt of notice of termination, the grantee shall:

(1) Discontinue further commitments of grant funds related to the terminated portion of the grant;

(2) Promptly cancel all subgrants, agreements, and contracts related to the terminated portion of the grant;

(3) Settle, with the approval of the Secretary, all outstanding claims arising from such termination; and

(4) Submit, within a reasonable period of time after the receipt of the notice of termination, a termination settlement proposal which shall include a final statement of all unreimbursed costs related to the terminated portion of the grant, but which, in case of terminations under paragraph (a) of this section, shall not include the cost of preparing a settlement proposal.

§ 97.166 Grant closeout procedures.

(a) The closeout of a grant is the process by which DOL determines that all applicable administrative actions and all of the required work under the grant have been completed by the grantee. The following procedures apply to grant closeouts:

(b) Upon the completion of the grant period, or at any termination date determined by the Secretary, the grantee shall:

(1) Refund immediately to the Secretary any unencumbered balance of cash drawn down from the letter of credit or advanced by Treasury checks. Amounts to be included in the refund checks are detailed in the Forms Preparation Handbook;

(2) Submit the following reports as described in the Forms Preparation Handbook, to the Division of Indian Manpower Programs:

(i) A final report of Federal Cash Transactions,

(ii) Grantee's Assignment of Refunds, Rebates and Credits,

(iii) Bank Statement-Special Bank/Financial Account,

(iv) Cancellation/Adjustment Fidelity Bond.

(v) List of possible claimants for unclaimed checks cancelled or payment stopped,

(vi) Grant Closeout Tax Certification,

(vii) Government Property Inventory,

(viii) Inventory Certificate,

(ix) Grantee's Release form,

(x) Final quarterly Planning and Budget Summary Reports, and

(xi) A final Summary of Participant Characteristics Report.

(c) Upon closeout, the Division of Indian Manpower Programs will insure that:

(1) Prompt payment is made to the prime sponsor for reimbursement of allowable costs under the grant;

(2) After the final reports are received, a settlement is made for any upward or downward adjustments which should be made in the Federal share of the costs;

(3) The letter of credit is cancelled; and

(4) The final program and fiscal audits are performed as soon as possible after the termination of the grant.

§ 97.167 Maintenance and retention of records.

(a) Grantees are required to maintain records on each program participant. The following types of information shall be recorded:

(1) Personal identifying information;

(2) Residence;

(3) Work history of the participant;

(4) Program activities in which the participant participated;

(5) Supportive services received by the participant; and

(6) Status of each participant at termination from the program. Specific items, instructions, and definitions are contained in the "Forms Preparation Handbook."

(b) The following provisions shall apply with regard to the retention of records pertaining to grants:

(1) Financial records, supporting documents, statistical records and all other pertinent records shall be retained for a period of three years.

(i) Records shall be retained beyond the three-year period if audit findings have not been resolved.

(ii) Records for nonexpendable property acquired with grant funds shall be retained for three years after the disposition of such property.

(iii) When grant program records are transferred to or maintained by the Secretary, the three-year retention requirement will not be applicable to the prime sponsor.

(2) The retention period shall start from the date of submission of the annual or final expenditure report, whichever applies to the particular grant.

(3) The substitution of microfilm copies in lieu of original records may be authorized by the DOL upon the request of the prime sponsor.

(4) The DOL may request prime sponsors to transfer grant records to the Department's custody when it is determined that such records have long-term retention value. However, suitable arrangements to avoid duplicate record-keeping shall be made if the Department and prime sponsor both need such records.

(5) (i) The names of all participants supported under the Act are considered public information.

(ii) Other information regarding applicants, project participants, or their immediate families, which may be obtained through application forms, interviews, tests, reports from public agencies or counselors or any other source, shall be made available to the public by the grantee to the same degree it makes such information available about its own employees in the governmental jurisdiction. Without the permission of the applicant or participant, such information which is not normally made available to the public or the grantee's own employees in the governmental jurisdiction shall be divulged only as necessary for purposes related to the performance or evaluation of the grant under the Act to persons having responsibilities under the grant, including those furnishing services to the project under subgrant or contract, and to governmental authorities to the extent necessary for the proper administration of law.

(iii) The names of all individuals employed in staff positions under the Act are considered public information. A grantee shall make other information available to the public pertaining to individuals employed in staff positions under the Act in the same manner and to the same extent as such information is made available on its regular employees. A grantee shall make other information available to the public on individuals employed in staff positions by the administrative unit of a consortium, who are not also employed by a member jurisdiction, in accordance with the policy of the member jurisdiction which has the least restrictive policy.

(iv) Irrespective of any other provision in these regulations, this paragraph (b)(5) is applicable to participants and staff for programs in Fiscal Year 1975, as well as thereafter.

§ 97.168 Program income.

(a) The prime sponsor shall not be held accountable for interest earned on grant-in-aid funds pending their disbursement for program purposes.

(b) Prime sponsors shall turn over to DOL any interest earned on advanced grant-in-aid funds.

(c) Proceeds from the sale of real and personal property, either provided by the Federal Government or purchased in whole or in part with Federal funds, shall be handled in accordance with the provisions of the Property Handbook for MA Contractors or the MA Property Handbook for OMB Circular A-102 Eligible Grantees, whichever is appropriate.

(d) Royalties received from copyrights and patents during the grant period shall be retained by the grantee and added to the funds already committed to the program. After termination or completion of the grant, the royalties in excess of $200 received annually shall be returned to DOL.

(e) All other program income earned during the grant period shall be retained by the grantee and, in accordance with the grant agreement, shall be added to funds committed to the project and be used to further program objectives.

(f) The prime sponsor shall record the receipt and expenditure of revenues (such as taxes, special assessments, levies, fines, etc.) as a part of grant project transactions.

§ 97.169 Procurement standards.

The standards to be used for the procurement of supplies, equipment, and other materials and services with grant funds are those described in the Property Handbook for MA Contractors or the MA Property Handbook for OMB Circular A-102 Eligible Grantees, whichever is appropriate.

§ 97.170 Nondiscrimination and equal employment opportunities.

(a) (1) No person, on the grounds of handicap (as defined in paragraph (f) of this section), sex, age, or political affiliation, shall be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity funded in whole or in part under this subpart (Section 703(1); Vocational Rehabilitation Act, Section 504).

(2) The prohibition against age discrimination does not prohibit the establishment of training and employment programs under this subpart designed to serve the legitimate needs of specific age groups.

(b) When the Secretary determines that a grantee has failed to comply with the requirements of this section, he shall notify the grantee of the noncompliance and request the grantee to comply. If the grantee fails or refuses to comply, the Secretary may, after notice and opportunity for hearing, terminate financial assistance and:

(1) May refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) May exercise the powers and functions provided to him by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 (d)); or

(3) May take other actions as may be provided by law.

(c) The Secretary shall enforce the provisions of this section with regard to discrimination on the basis of sex in accordance with Section 602 of the Civil Rights Act of 1964.

(d) This section shall not affect any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity under this subpart.

(e) The grantee shall be responsible for assuring that no discrimination prohibited by this section occurs in any program for which it has responsibility, and shall establish an effective Equal Employment Opportunity (EEO) program for this purpose. The grantee may, in establishing this program, assign the

responsibility for administering its EEO program to one individual and require subgrantees and contractors to prepare affirmative action plans. The grantee shall include in its Comprehensive Manpower Plan a description of its EEO program and affirmative action plans required of its subgrantees and contractors, including the procedures established for monitoring these activities.

(f) The term "handicapped individual" means any individual who has a physical or mental disability which constitutes or results in a substantial handicap to employment, but who can reasonably be expected to benefit in terms of employability from an activity under this subpart.

ASSESSMENT AND EVALUATION

§ 97.180 Assessment and evaluation in general.

(a) Sections 97.180 through 97.184 set forth the assessment and evaluation responsibilities of the prime sponsor and of the Secretary. The prime sponsor shall establish an adequate program mechanism for examining, in a systematic fashion, the success of its program in meeting the goals contained in the Comprehensive Manpower Plan and for measuring the effectiveness of its program in resolving manpower problems identified in that plan (Sec. 703(14)).

(b) The Secretary shall assess prime sponsors to determine whether they are carrying out the provisions of this subpart and of their approved Comprehensive Manpower Plans.

§ 97.181 Responsibilities of the prime sponsor.

(a) The prime sponsor shall submit periodic reports on the performance of its program pursuant to §§ 97.150–97.170.

(b) The prime sponsor shall establish internal program management procedures (Sec. 703(14)). These procedures shall be used by the prime sponsor to monitor day-to-day operations, to review periodically the performance of the program, and to measure the results of the program in terms of participants, program activities, and the community. The objective of these procedures shall be the improvement of overall program management and effectiveness.

(c) The prime sponsor shall monitor all program activities to determine whether the assurances and certifications it made in its Comprehensive Manpower Plan are being met and to identify problems which may require it to take corrective action in order to assure such compliance. The prime sponsor shall monitor by internal evaluative procedures, by examination of program data, or by any special analysis or checking it deems necessary and appropriate (Sec. 703).

(d) The prime sponsor shall cooperate with the Secretary's evaluations and assessments by providing, if requested, special reports on program activities and operations, the findings of its evaluations of effectiveness, and access to its records and program operations.

(e) When the prime sponsor finds that operations are not performing as planned, it shall take appropriate corrective action.

§ 97.182 Responsibilities of the Secretary.

(a) The term "assessment" refers to the Federal review of the plans and performance of individual prime sponsors, and the term "evaluation" refers to the study of the overall effectiveness and impact of programs and activities under the Act.

(b) The Secretary shall assess whether the prime sponsor is operating in accordance with its Comprehensive Manpower Plan, whether it is carrying out the purposes and provisions of the Act and these regulations, and whether it has demonstrated maximum efforts to implement the provisions in its prior year's comprehensive manpower plan.

(1) The Secretary shall assess the prime sponsor's program and activities in order to determine its compliance with the assurances and certifications of its comprehensive manpower plan.

(2) The assessment shall be conducted by the review of required periodic reports, supplemental special reports from the prime sponsor, and prime sponsor records, by selective on-site reviews including, in certain instances, the investigation of allegations or complaints, or by other examinations as appropriate.

(3) Assessments may also be conducted for the purpose of offering to prime sponsors technical assistance or recommendations for corrective action.

(c) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to the Act. Such studies shall include the examination of:

(1) Cost in relation to effectiveness;

(2) Impact on communities and participants;

(3) Implications for related programs;

(4) Extent to which the needs of various age groups are met;

(5) Adequacy of mechanisms for the delivery of services;

(6) Opinions of participants about the strengths and weaknesses of the programs;

(7) Relative and comparative effectiveness of programs under the Act with programs under part C of Title IV of the Social Security Act;

(8) Effectiveness of programs in meeting the employment needs of disadvantaged, unemployed and underemployed persons; and

(9) Extent to which artificial barriers restricting employment and advancement opportunities in agencies receiving funds under the Act have been removed.

(d) The Secretary shall compile, on a State, regional and national basis, information obtained from periodic reports or special reports, surveys, or samples required from prime sponsors, including information on:

(1) Participant characteristics, including age, sex, race, health, level of education, and previous employment experience.

(2) Duration of participants in training and employment situations and information on the individual's activities for at least a year following the termination of participation in the programs and comparable information on other employees or trainees or participating employers; and

(3) Total dollar cost per trainee, including breakdown between salary and allowances, training and supportive services and administrative costs (Sec. 313 (b)).

(e) Evaluations carried out in accordance with paragraphs (c) and (d) of this section may be conducted directly by the Department or by contract, grant or other arrangement, as the Secretary deems necessary or appropriate (Sec. 311 (c)).

§ 97.183 Limitation.

Neither a prime sponsor nor the Secretary shall, in arranging for the assessment of any program under this subpart, utilize for such assessment any nongovernmental individual, institution, or organization associated with that program as a consultant, technical advisor or in any similar capacity (Sec. 704(c)).

§ 97.184 Consultation with the Secretary of Health, Education, and Welfare.

The Secretary shall consult with the Secretary of Health, Education and Welfare with respect to arrangements for services of a health, education or welfare character for programs under this subpart. This consultation shall focus on the relationship of services under this subpart with those being delivered under laws for which the Secretary of Health, Education and Welfare is responsible.

HEARINGS

§ 97.190 Purpose and policy.

(a) Sections 97.190–97.198 set forth the adjudication procedures under this subpart, including procedures for hearings under this subpart and procedures for the receipt, investigation, hearing and determination of questions of noncompliance with the requirements of the Act, the regulations under this subpart, and their grant agreements.

(b) It is the policy of the Secretary to receive information concerning alleged violations of Section 302 of the Act and of the regulations under this subpart from any person, prime sponsor, or any unit of Federal, State or local government. Assistance in the filing of a formal allegation may be secured from the appropriate regional or from the national Solicitor's Office of the Department by anyone who desires and needs such assistance.

(c) A participant in a program under this subpart must exhaust the administrative remedies established by the prime sponsor for resolving matters in dispute prior to filing a complaint under these sections, 97.190–97.198. The filing of a complaint under sections 97.190–97.198 shall not, however, stay a decision ren-

dered by a prime sponsor. A participant may file a complaint under these §§ 97.190–97.198, within thirty days after any final decision by a prime sponsor.

§ 97.191 Review of plans and applications; violations.

(a) The Secretary shall not finally disapprove any Comprehensive Manpower Plan or application for financial assistance submitted under Section 302 of the Act, or any modification thereof, without first affording the prime sponsor applicant reasonable notice and opportunity for a hearing.

(b) When information available to the Division of Indian Manpower Programs indicates that a prime sponsor may be:

(1) Maintaining a pattern or practice of discrimination in violation of Section 703(1) or Section 712(a) of the Act, or otherwise failing to serve equitably the economically disadvantaged, unemployed, or underemployed persons in the area it serves;

(2) Incurring unreasonable administrative costs in the conduct of program activities;

(3) Failing to give due consideration to continued funding of programs of demonstrated effectiveness including those previously conducted under the statutes repealed by Section 714 of the Act; or

(4) Otherwise materially failing to carry out the purposes and provisions of the Act or regulations issued pursuant to the Act; it shall notify the prime sponsor of its proposed action and provide the prime sponsor a reasonable time within which to respond. If the matter cannot be informally resolved, a hearing shall be held pursuant to § 97.196(a).

§ 97.192 Complaints; filing of formal allegations; dismissal.

(a) A prime sponsor applicant, which wishes to object to a determination of its lack of qualification or to its failure to be designated as a potential grantee, may file a Petition for Reconsideration with the Division of Indian Manpower Programs within 14 days of the notification of its lack of qualification or of its failure to be designated as a potential grantee.

(1) A Petition for Reconsideration shall be in writing, shall be signed by a responsible official of the prime sponsor applicant, and shall enumerate the factors which the applicant asserts should be reviewed in reconsidering its letter of intent-qualifications statement.

(2) Upon receipt of the Petition for Reconsideration, the Division of Indian Manpower Programs shall, within 30 days, make one of the following determinations:

(i) That, based on the available information from the original letter of intent-qualifications statement and the Petition for Reconsideration, the organization is qualified to submit a grant application or that the Department should continue the grant process with the applicant;

(ii) That the original determination was correct;

(iii) That the applicant is qualified, but the Division of Indian Manpower Programs has already designated another qualified applicant to operate a program for the area; or

(iv) That an informal conference between representatives of the prime sponsor applicant and the Division of Indian Manpower Programs will be held at a stated time and place on the matters complained of in the Petition for Reconsideration.

(3) If an informal conference is held, the complainant will have the opportunity to present any pertinent information which may further substantiate its assertions. The Division of Indian Manpower Programs shall, within 14 days after the informal conference, notify the prime sponsor applicant of its final decision. Petition for Reconsideration of prime sponsor designation shall not be subject to further administrative review.

(b) All complaints other than those made pursuant to paragraph (a) of this section shall be filed as a formal allegation with the Division of Indian Manpower Programs. A formal allegation so filed may be withdrawn only with the consent of the Division of Indian Manpower Programs.

(c) A formal allegation pending more than 6 months after filing because the complainant has failed to cooperate during investigation of the matter may be dismissed by the Secretary upon notice to the complainant at the complainant's last known address.

Every formal allegation shall be in writing and signed by the complainant and shall be sworn to before a Notary Public or another person duly authorized to administer oaths. A formal allegation need not follow any particular format but should be neat, legible and suitable for flat filing.

§ 97.194 Contents of formal allegations; amendment.

(a) The formal allegation shall contain the following:

(1) The full name and address of the complainant;

(2) The full name and address of the party against whom the formal allegation is made;

(3) A clear and concise statement of the facts constituting the alleged unlawful practice, including pertinent dates;

(4) If known, the provisions of the Act, regulations, or grant provisions believed to have been violated;

(5) A statement disclosing whether proceedings involving the acts complained of have been commenced before a State, local or tribal authority, and if so, the date of such commencement and the name of the authority; and

(6) If the complainant is a program participant, a statement that the administrative procedures established by the prime sponsor have been followed to completion by the complainant or that the prime sponsor has no applicable procedures.

(b) Notwithstanding the provisions of paragraph (a) above, a formal allegation will be considered to have been filed when the Division of Indian Manpower Programs receives from the complainant a written statement sufficiently precise to both identify those against whom the allegations are made and to fairly afford the other party enough information to begin to prepare a defense. A formal allegation may be thereafter amended to cure technical defects or emissions, including a failure to swear to the allegation, or to clarify or amplify the allegations. Such amendments shall relate back to the original filing date. An amendment alleging additional acts not directly related to or growing out of the subject matter of the original formal allegation will be permitted only if, at the date of the amendment, the allegation could not have been timely filed as a separate formal allegation, and if the rights of any respondent will not be prejudiced.

§ 97.195 Investigations.

(a) The Division of Indian Manpower Programs will make a prompt investigation of each formal allegation filed. The investigation may include, if appropriate, a review of the pertinent practices and policies of a prime sponsor, the circumstances surrounding the allegation, and other relevant factors.

(1) If the investigaton indicates wrongdoing, the Division of Indian Manpower Programs will so inform the respondent and the complainant and, if possible, attempt to resolve the matter by informal means. If informal resolution does not occur within a reasonable period of time, a hearing shall be held pursuant to § 97.196(b).

(2) If an investigation does not warrant action pursuant to paragraph (a)(1) of this section, the Division of Indian Manpower Programs will so inform the parties in writing, unless § 97.196 (a) or (c) applies.

(b) No prime sponsor, participant, or other person shall intimidate, threaten, coerce, or discriminate against any individual because the individual has made a complaint, formal allegation, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this subpart. The identity of every complainant shall be kept confidential except to the extent necessary to carry out any investigation, hearing, or judicial proceeding arising under or from this subpart.

§ 97.196 Opportunity for hearings; when required.

An opportunity for a public hearing shall be extended if:

(a) The Division of Indian Manpower Programs receives a formal allegation from an affective Indian tribe, band, group or Alaskan native village or community or from another person that a prime sponsor has changed its Comprehensive Manpower Plan so that it no longer complies with Section 302 of the Act, or that, in the administration of the Comprehensive Manpower Plan, there has been a failure to comply substantially with any provision of the Comprehensive Manpower Plan or with the requirements of Section 703 or 704 of the Act, and the matter has not been resolved

informally within a reasonable period of time; or

(b) After an investigation pursuant to § 97.195 reveals substantial evidence of facts to support a conclusion of probable cause that a violation of the Act, regulations, or grant provisions has occurred or is occurring, and the matter has not been resolved by informal means; or

(c) The Division of Indian Manpower Programs determines that fairness and the effective operation of programs under this subpart would be furthered by an opportunity for a public hearing.

§ 97.197 Hearings.

(a) *Hearings.* Whenever a hearing is to be held under this subpart, the Division of Indian Manpower Programs shall give reasonable notice by registered or certified mail, return receipt requested, to the affected parties. The notice shall list the allegations to be heard, the proposed remedial actions which may be taken, and the matters of fact or law asserted on the basis for the action. The notice shall also advise the parties that the matter in question has been referred by the Division of Indian Manpower Programs to an Administrative Law Judge of the Department for hearing. The Administrative Law Judge shall notify the parties of the time and place of hearing, that the time and place shall be subject to change for cause, that the parties may agree to waive the hearing and to have the case decided on the record, and that the failure without good cause of a party to appear at the hearing shall be deemed as that party's consent to the making of a decision without that party's input at the hearing.

(b) *Time and place of hearings.* Hearings shall be held in Washington, D.C. At the request of a party, and upon a determination by the Administrative Law Judge that good cause exists, the Administrative Law Judge may select for the hearing a city in which the Department has a regional office.

(c) *Right to counsel.* All parties shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearing, decision, and any administrative review thereof shall be conducted as described in Sections 5–8 of the Administrative Procedure Act.

(2) Technical rules of evidence shall not apply to the hearing, but rules or principles designed to assure production of the most credible evidence available, and to subject testimony to test by cross-examination, shall be applied by the Administrative Law Judge conducting the hearing. The Administrative Law Judge may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(3) The provisions of the Federal Rules of Civil Procedure governing discovery shall be applicable with respect to any hearing conducted under this subpart.

(4) When a public officer is a party in a hearing in his official capacity and, during its pendency, he dies, resigns, or otherwise ceases to hold office, the proceeding does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantive rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the continuity of the hearing process.

(e) *Consolidated hearings.* In cases in which the same or related facts are asserted, the Administrative Law Judge may consolidate the hearings.

§ 97.198 Initial certification, decisions and notices.

(a) The Administrative Law Judge shall make an initial decision, and may certify the entire record including his findings of fact, conclusions of laws, and initial decision to the Secretary for a final decision. A copy of the initial decision and any certification to the Secretary shall be mailed to the parties. Whenever an initial decision has been made, whether or not there has been a certification to the Secretary, a party may, within 30 days of the mailing of the notice of the initial decision, file with the Secretary exceptions to the initial decision, with reasons therefor and with a sworn certification that the exceptions filed have been served on the other party. The Secretary may, after an initial decision has been certified to him by an Administrative Law Judge, serve on the parties a notice that he will review the decision. Thereupon, the Secretary will conduct such a review and will issue a final decision. Upon the filing of exceptions, the Secretary may review the initial decision and issue his own final decision. Decisions of the Secretary shall be in writing, shall give the reasons for the decision, and shall be mailed promptly to the parties. In the absence of either exceptions by a party or certification to the Secretary by the Administrative Law Judge, and in the case of a decision by the Secretary not to review an initial decision, the initial decision of the Administrative Law Judge shall constitute the final decision of the Secretary, and the parties will be so notified in writing.

(b) Whenever the Secretary reviews an initial decision of an Administrative Law Judge pursuant to paragraph (a) of this section, the parties shall be given reasonable opportunity to file with him briefs or other written statements of their contentions.

(c) A final decision of the Secretary may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved and may contain such terms, conditions, and other determinations as are consistent with and will effectuate the purposes of the Act and the regulations under this subpart, including determinations designed to assure that no Federal financial assistance will thereafter be extended under such a program unless and until the noncompliance is corrected and the Secretary is satisfied that full compliance with the Act and the regulations under this subpart has been achieved.

Signed in Washington, D.C. this 6th day of October, 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-27216 Filed 10-8-75;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 97]

SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Allowable Federal Costs; New Limitations Thereon

The Deparement of Labor is today publishing, elsewhere in this issue of the FEDERAL REGISTER, new final regulations for 29 CFR 97, Subpart B, for the Indian Manpower Programs under Section 302 of the Comprehensive Employment and Training Act of 1973, as amended, 87 Stat. 839, 29 U.S.C. 801. The final regulations are basically the same as the previous regulations for the program and are the result of the comments received on the previous regulations over the past year.

The Department, based upon its own experience in administering the Indian Manpower Program over the last year, is proposing in this document three additional limitations on the expenditure of Federal funds by prime sponsors. The Department believes that these proposed regulations are needed for the effective administration of the Indian Manpower Program.

Interested persons may submit comments, data, or arguments on these proposed regulations until October 1975. Such communications should be addressed to:

William H. Kolberg, Assistant Secretary of Labor for Manpower, U.S. Department of Labor, 6th and D Streets, N.W., Washington, D.C. 20213, Attention: Division of Indian Manpower Programs.

All comments, data, and arguments received shall be evaluated to determine whether any change in the proposed regulations is warranted. Upon completion of this evaluation, final regulations shall be published in the FEDERAL REGISTER.

In consideration of the foregoing, it is proposed to amend 29 CFR 97.161, *Allowable Federal costs*, as follows:

By adding a new paragraph (b)(3) and (f)(7) and amending (f)(6)(i) by adding a sentence to the end thereof to read as follows:

§ 97.161 Allowable Federal costs.

* * * * *

(b) * * *

(3) No funds grants under this subpart may be used, either directly or indirectly, for purposes of obtaining consulting or technical assistance subgrants or contracts without prior written approval of the Division of Indian Manpower Programs. Requests for approval of such subgrants or contracts shall contain a detailed explanation as to the need for such consultant or technical assistance services and a reason why such services cannot be provided without such subgrants or contracts. The request shall also include a resume of the qualifications of the proposed consulting or technical assistance organization. The total proposed costs of such services must be reasonable in relation to the total administrative costs of the prime sponsor's grant.

* * * * *

(f) * * *

(6) * * *

(i) * * * The value of space owned by a prime sponsor or a member of a consortium and used for purposes of a section 302 program shall not be an allowable cost chargeable to the grant.

* * * * *

(f) * * *

(7) *Travel regulations.* The following travel regulations apply to all prime sponsors:

(i) *Advance approval.* All grantee, subgrantee or contractor payments for travel by employees, consultants, and members of boards or councils shall be approved in advance by the responsible official designated by the grantee.

(ii) *Out-of-State travel.* All out-of-State travel (in the case of multistate grantees, all travel out of the geographic area of the grant) must be specifically approved in writing in advance by the Division of Indian Manpower Programs.

(iii) *Travel outside the geographic area of the grant* must be for programmatic purposes, viz.: job development, contract negotiations, administration of subgrants and contracts, etc. Travel outside the geographic area of the grant for nonprogrammatic purposes, viz.: training sessions, conferences, board meetings, consultation, etc., must be specifically approved in writing, in advance by the Division of Indian Manpower Programs.

(iv) *Travel policies.* All grantees, subgrantees and contractors are required to follow the travel policies set forth in the Standardized Government Travel Regulations (SGTR). Where a grantee, subgrantee or contractor has more restrictive requirements, the latter shall be followed.

(v) *Mileage costs.* Mileage costs for the use of privately owned automobiles shall be paid in accordance with prevailing rates in the community. In no event, however, shall the rates exceed those provided for in the SGTR.

(vi) *First-class travel.* Less than first-class travel accommodations shall be used in all instances except when:

(A) These accommodations do not exist or are not available within a reasonable time;

(B) Less than first-class travel would result in high overall costs because of required routing, time urgency, baggage differential, or other factors; or

(C) The physical condition of the traveler or other extenuating circumstances require the use of first-class travel.

(vii) *Per diem rates.* (A) Per diem rates shall be established by the prime sponsor based on the following factors:

(*1*) Cost of meals and lodging in the locality;

(2) Availability of meals and lodging at temporary duty locations without charge, or at nominal costs; and

(3) Extended duty at a place where the traveler may obtain accommodations at reduced rates.

(B) In no event shall per diem rates exceed the maximum established by the Standardized Government Travel Regulations for travel within the Continental United States and by the Civilian Personnel Per Diem Bulletin (Department of Defense) for travel within or to Hawaii and Puerto Rico.

(Sec. 702(a) of the Comprehensive Employment and Training Act of 1973, as amended, 87 Stat. 839, 29 U.S.C. 801)

Dated this 6th day of October 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-27215 Filed 10-8-75;8:45 am]

federal register

THURSDAY, OCTOBER 9, 1975

PART VIII:

PRIVACY ACT OF 1974

■

VARIOUS AGENCIES

Title 32—National Defense

CHAPTER XXI—NATIONAL SECURITY COUNCIL

PART 2102—RULES AND REGULATIONS TO IMPLEMENT THE PRIVACY ACT OF 1974

On September 3, 1974, there was published in the FEDERAL REGISTER (Title 32, Chapter XXI, Code of Federal Regulations, Part 2102) a notice of proposed rules to implement the provisions of the Privacy Act of 1974, 5 U.S.C. 552a(f). The public was given the opportunity to submit, not later than September 15, 1975, comments regarding the proposed rules. No comments have been received, and the proposed rules are hereby adopted without change as set forth below.

Effective Date: September 27, 1975.

JEANNE W. DAVIS,
Staff Secretary.

Title 32, Chapter XXI, Code of Federal Regulations is amended by establishing a new Part 2102, as follows:

Sec.
2102.1 Introduction.
2102.2 Purpose and scope.
2102.3 Definitions.
2102.11 Procedures for determining if an individual is the subject of a record.
2102.13 Requirements for requesting access to a record.
2102.15 Requirements for requests to amend records.
2102.21 Procedures for appeal of determination to deny access to or amendment of requested records.
2102.31 Disclosure of record to persons other than the individual to whom it pertains.
2102.41 Fees.
2102.51 Penalties.
2102.61 Exemptions.

AUTHORITY: 5 U.S.C. 552a (f) and (k)

§ 2102.1 Introduction.

(a) Insofar as the Privacy Act of 1974 (5 U.S.C. 552a) applies to the National Security Council (hereafter NSC), it provides the American public with expanded opportunities to gain access to records maintained by the NSC Staff which may pertain to them as individuals. These regulations are the exclusive means by which individuals may request personally identifiable records and information from the National Security Council.

(b) The NSC Staff, in addition to performing the functions prescribed in the National Security Act of 1947, as amended (50 U.S.C. 401), also serves as the supporting staff to the President in the conduct of foreign affairs. In doing so the NSC Staff is acting not as an agency but as an extension of the White House Office. In that the White House Office is not considered an agency for the purposes of this Act, the materials which are used by NSC Staff personnel in their role as supporting staff to the President are not subject to the provisions of the Privacy Act of 1974. A description of these White House Office files is, nevertheless, appended to the NSC notices of systems of files and will be published annually in the FEDERAL REGISTER.

(c) In general, Records in NSC files pertain to individual members of the public only if these individuals have been (1) employed by the NSC, (2) have corresponded on a foreign policy matter with a member of the NSC or its staff, or (3) have, as a U.S. Government official, participated in an NSC meeting or in the preparation of foreign policy-related documents for the NSC.

§ 2102.2 Purpose and scope.

(a) The following regulations set forth procedures whereby individuals may seek and gain access to records concerning themselves and will guide the NSC Staff response to requests under the Privacy Act. In addition, they outline the requirements applicable to the personnel maintaining NSC systems of records.

(b) These regulations, published pursuant to the Privacy Act of 1974, Public Law 93-579, Section 552a (f) and (k), 5 U.S.C. (hereinafter the Act), advise of procedures whereby an individual can:

(1) Request notification of whether the NSC Staff maintains or has disclosed a record pertaining to him or her in any non-exempt system of records;

(2) Request a copy of such record or an accounting of that disclosure;

(3) Request an amendment to a record; and,

(4) Appeal any initial adverse determination of any request under the Act.

(c) These regulations also specify those systems of records which the NSC has determined to be exempt from certain provisions of the Act and thus not subject to procedures established by this regulation.

§ 2102.3 Definitions.

As used in these regulations:

(a) *Individual.* A citizen of the United States or an alien lawfully admitted for permanent residence.

(b) *Maintain.* Includes maintain, collect, use or disseminate. Under the Act it is also used to connote control over, and, therefore, responsibility for, systems of records in support of the NSC statutory function (50 U.S.C. 401, et seq.).

(c) *Systems of Records.* A grouping of any records maintained by the NSC from which information is retrieved by the name of the individual or by some other identifying particular assigned to the individual.

(d) *Determination.* Any decision made by the NSC or designated official thereof which affects the individual's rights, opportunities, benefits, etc. and which is based in whole or in part on information contained in that individual's record.

(e) *Routine Use.* With respect to the disclosure of a record, the use of such a record in a manner which is compatible with the purpose for which it was collected.

(f) *Disclosure.* The granting of access or transfer of a record by any means.

§ 2102.4 Procedures for determining if an individual is the subject of a record.

(a) Individuals desiring to determine if they are the subject of a record or system of records maintained by the NSC Staff should address their inquiries, marking them plainly as a *PRIVACY ACT REQUEST*, to:

Staff Secretary, National Security Council, Room 374, Old Executive Office Building, Washington, D.C. 20506.

All requests must be made in writing and should contain:

(1) A specific reference to the system of records maintained by the NSC as listed in the NSC Notices of Systems and Records (copies available upon request); or

(2) A description of the record or systems of records in sufficient detail to allow the NSC to determine whether the record does, in fact, exist in an NSC system of records.

(b) All requests must contain the printed or typewritten name of the individual to whom the record pertains, the signature of the individual making the request, and the address to which the reply should be sent. In instances when the identification is insufficient to insure disclosure to the individual to whom the information pertains in view of the sensitivity of the information, NSC reserves the right to solicit from the requestor additional identifying information.

(c) Responses to all requests under the Act will be made by the Staff Secretary, or by another designated member of the NSC Staff authorized to act in the name of the Staff Secretary in responding to a request under this Act. Every effort will be made to inform the requestor if he or she is the subject of a specific record or system of records within ten working days (excluding Saturdays, Sundays and legal Federal Holidays) of receipt of the request. Such a response will also contain the procedures to be followed in order to gain access to any record which may exist and a copy of the most recent NSC notice, as published in the FEDERAL REGISTER, on the system of records in which the record is contained.

(d) Whenever it is not possible to respond in the time period specified above, the NSC Staff Secretary or a designated alternate will, within ten working days (excluding Saturdays, Sundays and legal Federal Holidays), inform the requestor of the reasons for the delay (e.g., insufficient requestor information, difficulties in record location, etc.), steps that need to be taken in order to expedite the request, and the date by which a response is anticipated.

§ 2102.13 Requirements for access to a record.

(a) Individuals requesting access to a record or system of records in which there is information concerning them must address a request in writing to the Staff Secretary of the NSC (see Section 1. above). Due to restricted access to

NSC offices in the Old Executive Office Building where the files are located, requests cannot be made in person.

(b) All written requests should contain a concise description of the records to which access is requested. In addition, the requestor should include any other information which he or she feels would assist in the timely identification of the record. Verification of the requestor's identity will be determined under the same procedures used in requests for learning of the existence of a record.

(c) To the extent possible, any request for access will be answered by the Staff Secretary or a designated alternate within ten working days (excluding Saturdays, Sundays, and legal Federal holidays) of the receipt of the request. In the event that a response cannot be made within this time, the requestor will be notified by mail of the reasons for the delay and the date upon which a reply can be expected.

(d) The NSC response will forward a copy of the requested materials unless further identification or clarification of the request is required. In the event access is denied, the requestor shall be informed of the reasons therefore and the name and address of the individual to whom an appeal should be directed.

§ 2102.15 Requirements for requests to amend records.

(a) Individuals wishing to amend a record contained in the NSC systems of records pertaining to them must submit a request in writing to the Staff Secretary of the NSC in accordance with the procedures set forth herein.

(b) All requests for amendment or correction of a record must state concisely the reason for requesting the amendment. Such requests should include a brief statement which describes the information the requestor believes to be inaccurate, incomplete, or unnecessary and the amendment or correction desired.

(c) To the extent possible, every request for amendment of a record will be answered within ten working days (excluding Saturdays, Sundays, and legal Federal holidays) of the receipt of the request. In the event that a response cannot be made within this time, the requestor will be notified by mail of the reasons for the delay and the date upon which a reply can be expected. A final response to a request for amendment will include the NSC Staff determination on whether to grant or deny the request. If the request is denied, the response will include:

(1) The reasons for the decision;

(2) The name and address of the individual to whom an appeal should be directed;

(3) A description of the process for review of the appeal within the NSC; and

(4) A description of any other procedures which may be required of the individual in order to process the appeal.

§ 2101.21 Procedures for appeal of determination to deny access to or amendment or requested records.

(a) Individuals wishing to appeal an NSC Staff denial of a request for access or to amend a record concerning them must address a letter of appeal to the Staff Secretary of the NSC. The letter must be received within thirty days from the date of the Staff Secretary's notice of denial and, at a minimum, should identify the following:

(1) The records involved;

(2) The dates of the initial request and subsequent NSC determination; and

(3) A brief statement of the reasons supporting the request for reversal of the adverse determination.

(b) Within thirty working days (excluding Saturdays, Sundays and legal Federal Holidays) of the date of receipt of the letter of appeal, the Assistant to the President for National Security Affairs (hereinafter the "Assistant"), or the Deputy Assistant to the President for National Security Affairs (hereinafter the "Deputy Assistant"), acting in his name, shall issue a determination on the appeal. In the event that a final determination cannot be made within this time period, the requester will be informed of the delay, the reasons therefor and the date on which a final response is expected.

(c) If the original request was for access and the initial determination is reversed, a copy of the records sought will be sent to the individual. If the initial determination is upheld, the requester will be so advised and informed of the right to judicial review pursuant to 5 U.S.C. 552a(g).

(d) If the initial denial of a request to amend a record is reversed, the records will be corrected and a copy of the amended record will be sent to the individual. In the event the original decision is upheld by the Assistant to the President, the requestor will be so advised and informed in writing of his or her right to seek judicial review of the final agency determination, pursuant to Section 552a(g) of Title 5, U.S.C. In addition, the requestor will be advised of his right to have a concise statement of the reasons for disagreeing with the final determination appended to the disputed records. This statement should be mailed to the Staff Secretary within ten working days (excluding Saturdays, Sundays, and legal Federal Holidays) of the date of the requestor's receipt of the final determination.

§ 2102.31 Disclosure of a record to persons other than the individual to whom it pertains.

(a) Except as provided by the Privacy Act, 5 U.S.C. 552a(b), the NSC will not disclose a record concerning an individual to another person or agency without the prior written consent of the individual to whom the record pertains.

§ 2102.41 Fees.

(a) Individuals will not be charged for:

(1) The first copy of any record provided in response to a request for access or amendment;

(2) The search for, or review of, records in NSC files;

(3) Any copies reproduced as a necessary part of making a record or portion thereof available to the individual.

(b) After the first copy has been provided, records will be reproduced at the rate of twenty-five cents per page for all copying of four pages or more.

(c) The Staff Secretary may provide copies of a record at no charge if it is determined to be in the interest of the Government.

(d) The Staff Secretary may require that all fees be paid in full prior to the issuance of the requested copies.

(e) Remittances shall be in the form of a personal check or bank draft drawn on a bank in the United States, or a postal money order. Remittances shall be made payable to the "United States Treasury" and mailed to the Staff Secretary, National Security Council, Washington, D.C. 20506.

(f) A receipt for fees paid will be given only upon request. Refund of fees paid for services actually rendered will not be made.

§ 2102.51 Penalties.

Title 18, U.S.C. Section 1001, Crimes and Criminal Procedures, makes it a criminal offense, subject to a maximum fine of $10,000 or imprisonment for not more than five years or both, to knowingly and willfully make or cause to be made any false or fraudulent statements or representations in any matter within the jurisdiction of any agency of the United States. Section (i)(3) of the Privacy Act (5 U.S.C. 552a) makes it a misdemeanor, subject to a maximum fine of $5,000, to knowingly and willfully request or obtain any record concerning an individual under false pretenses. Sections (i)(1) and (2) of 5 U.S.C. 552a provide penalties for violations by agency employees, of the Privacy Act or regulations established thereunder.

§ 2102.61 Exemptions.

Pursuant to subsection (k) of the Privacy Act, (5 U.S.C. 552a), the Staff Secretary has determined that certain NSC systems of records may be exempt in part from Sections 553 (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f) of Title 5, and from the provisions of these regulations. These systems of records may contain information which is classified pursuant to Executive Order 11652. To the extent that this occurs, records in the following systems would be exempt under the provision of 5 U.S.C. 552a(k)(1):

NSC 1.1—Central Research Index,
NSC 1.2—NSC Correspondence Files, and
NSC 1.3—NSC Meetings Registry.

[FR Doc.75-27192 Filed 10-6-75;2:40 pm]

NATIONAL SECURITY COUNCIL

PRIVACY ACT OF 1974

Notice of Systems of Records

OCTOBER 2, 1975.

On September 9, 1975 there was published in the FEDERAL REGISTER a notice of proposed National Security Council systems of records, in accordance with 5 U.S.C. 552a(e)(4), Section 3 of the Privacy Act of 1974 (Public Law 93-579). The public was given the opportunity to submit, not later than September 15, 1975, written comments concerning the proposed systems of records. No comments were received and the proposed notice of systems of records is hereby adopted.

Effective date: September 27, 1975.

JEANNE W. DAVIS,
Staff Secretary.

[FR Doc.75-27193 Filed 10-6-75;2:40 pm]

SYSTEMS OF RECORDS

Privacy Act of 1974; Correction

In FR Doc. 75-22756 appearing at page 40087 in the FEDERAL REGISTER of Friday, August 29, 1975 (40 FR 40087) changes are made consisting of correction typographical errors and adding a new routine use, applicable throughout the Department of Defense, concerning congressional inquiries.

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

OCTOBER 6, 1975.

In FR Doc. 75-21075 appearing at page 35151 in the FEDERAL REGISTER of Monday, August 18, 1975, the following changes should be made:

1. On page 35151, column one, the first two paragraphs should be deleted and the following revised new paragraphs substituted as follows:

"The systems of records in the Department of Defense which are subject to the Privacy Act are maintained by the Components of the Department. These Components are:

U.S. Army.
Defense Mapping Agency.
Defense Civil Preparedness Agency.
Office of the Secretary of Defense.
Defense Advanced Research Projects Agency.
Department of the Air Force.
National Security Agency/Centuray Security Service.
Defense Nuclear Agency.
Organization of the Joint Chiefs of Staff.
Defense Communications Agency.
Defense Intelligence Agency.
Department of the Navy U.S. Marine Corps.
Defense Contract Audit Agency.
Defense Supply Agency.
Defense Security Assistance Agency.
Defense Investigative Service.
Uniformed Services University of the Health Sciences.

The Defense Security Assistance Agency has no system of records which requires publication under the Privacy Act. The system notices which follow contain listings for all other Components of the Department of Defense. Taken together, the Component listings constitute the total systems of records in the Department which are required to be published.

2. On page 35151, column one, after the third paragraph and before the section heading: "Routine Use—Law Enforcement" insert the following:

"DEPARTMENT OF DEFENSE COMPONENT IDENTIFIERS"

Each published system of records is preceded by a code identifier. The first letter of the code represents the appropriate Component identifier. Following is a list of identifiers for the Department of Defense and its Components assigned by Office of the Federal Register including the volume and page number of the FEDERAL REGISTER at which the systems of records of the specific Component begin.

The letter D identifies both the Department of Defense and the Office of the Secretary of Defense. The systems listed as D001 through D004 are generic descriptions of civilian personnel records which are maintained by virtually all Components. These generic descriptions will eventually be incorporated with the various Component listings. Except for the systems identified as D001 through D004, all systems of records having the D identifier are in the Office of the Secretary of Defense.

The Department of Defense systems D001 through D004 precede all other Component listings; the balance of Component listings are in the alphabetical order of the designation.

Identifier	*Component*
A	Department of the Army (DA) (40 FR 35151).
B	Defense Mapping Agency (DMA) (40 FR 35297).
C	Defense Civil Preparedness Agency (DCPA) (40 FR 35334).
D	Department of Defense (DOD) (40 FR 35151).
D	Office of the Secretary of Defense (OSD) (40 FR 35357).
E	Defense Advanced Research Projects Agency (DARPA) (40 FR 35401).
F	Department of the Air Force (AF) (40 FR 35403).
G	National Security Agency (NSA) (40 FR 35741).
H	Defense Nuclear Agency (DNA) (40 FR 35748).
J	Organization of the Joint Chiefs of Staff (JCS) (40 FR 35750).
K	Defense Communications Agency (DCA) (40 FR 35752).
L	Defense Intelligence Agency (DIA) (40 FR 35796).
M	U.S. Marine Corps (USMC).
N	Department of the Navy (DON) (40 FR 35852).
Q	Central Security Service (CSS) (40 FR 35741).
R	Defense Contract Audit Agency (DCAA) (40 FR 36018).
S	Defense Supply Agency (DSA) (40 FR 36045).
T	Defense Security Assistance Agency (DSAA), no system of records.
V	Defense Investigative Service (DIS) (40 FR 36077).
W	Uniformed Services University of the Health Sciences (USUHS) (40 FR 36088).

DEPARTMENT OF DEFENSE GENERIC SYSTEMS

ROUTINE USE—LAW ENFORCEMENT

In the event that a system of records maintained by any component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

ROUTINE USE—DISCLOSURE WHEN REQUESTING INFORMATION

A record from a system of records maintained by any component may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

ROUTINE USE—DISCLOSURE OF REQUESTED INFORMATION

A record from a system of records maintained by any component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

ROUTINE USE—CONGRESSIONAL INQUIRIES

Disclosure from a system of records maintained by any component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

ROUTINE USE WITHIN THE DEPARTMENT OF DEFENSE

A record from a system of records maintained by any component may be disclosed as a routine use to other components of the Department of Defense if necessary and relevant for the performance of a lawful function such as, but not limited to, personnel actions, personnel security actions and criminal investigations of the Component requesting the record.

The following generic systems of records relating to civilian personnel are applicable throughout the Department of Defense. Public comments, including written data, views, or arguments concerning the following systems of records should be addressed within 30 days of

this publication to the system manager identified in each records system notice.

"DEPARTMENT OF THE ARMY"

3. On page 35297, column one, before the first paragraph entitled Routine Use—Law Enforcement insert the following heading:

"DEFENSE MAPPING AGENCY"

4. On page 35334, column one, before the first paragraph entitled "Routine Use—Law Enforcement" insert the following heading:

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