AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol. 40—No. 205
10-22-75
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federal register

WEDNESDAY, OCTOBER 22, 1975



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federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Birmingham Southern Railroad Co.; waiver of freight car standards; comments by 10–31–75 ..... 42895; 9–17–75

Union Railroad Co.; waiver of freight car standards; comments by 10–31–75 ..... 42895; 9–17–75

National Highway Traffic Safety Administration—

To be held at the Departmental Auditorium, Constitution Avenue (between 12th and 14th Streets, N.W.), Washington, D.C. (open), 10–29 through 10–31–75 ..... 43049; 9–18–75

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau—

Advisory Committee on Distilled Spirits Plant Supervision; to be held at Washington, D.C. (open), 10–29 and 10–30–75 ..... 47153; 10–8–75

VETERANS ADMINISTRATION

Health Manpower Training Assistance Review Committee; to be held in Washington, D.C. (open with restrictions), 10–28 through 10–31–75. 46164; 10–6–75

Voluntary Service National Advisory Committee; to be held in Washington, D.C. (open), 10–30–75 ..... 48558; 10–16–75

Daily List of Public Laws

H.R. 5708 ..... Pub. L. 94–117
An act to provide for the striking of medals in commemoration of the bicentennials of the United States Army, the United States Navy, and the United States Marine Corps
(Oct. 17, 1975; 89 Stat. 602)

H.R. 8070 ..... Pub. L. 94–116
Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1976
(Oct. 17, 1975; 89 Stat. 581)

S. 557 ..... Pub. L. 94–115
An act to declare that certain land of the United States is held by the United States in trust for the pueblo of Laguna
(Oct. 17, 1975; 89 Stat. 580)

S. 1327 ..... Pub. L. 94–114
An act to declare that certain submarginal land of the United States shall be held in trust for certain Indian tribes and be made a part of the reservations of said Indians, and for other purposes
(Oct. 17, 1975; 89 Stat. 577)

rules and regulations

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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and the Humanities

Section 213.3182 is amended to show that until June 30, 1976, one position of Planning Officer in the Office of Planning and Analysis, National Endowment for the Humanities, is excepted under Schedule A.

Effective on October 22, 1975, § 213.3182 (b) (25 is added as set out below:

§ 213.3182 National Foundation on the Arts and the Humanities.

* * * * *

(b) *National Endowment for the Humanities.* * * *

(25) Until June 30, 1976, one Planning Officer, Office of Planning and Analysis.

(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.75-28444 Filed 10-21-75;8:45 am]

Title 9—Animals and Animal Products

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

PART 112—PACKAGING AND LABELING

Miscellaneous Amendments

● Purpose: To require that a warning statement be added to labeling used with Marek's Disease Vaccine. ●

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158), Part 112, Subchapter E, Chapter 1 of Title 9 of the Code of Federal Regulations is amended to require a recommendation that Marek's Disease Vaccine be administered subcutaneously or intramuscularly only. Neither the safety, potency, nor efficacy of this vaccine has been established when administered by any other method.

These amendments also prescribe a requirement that a statement be included on each carton and in each insert as a warning to the user that the vaccine is to be given either subcutaneously or intramuscularly.

The label changes required by these amendments are to be made as soon as possible either by the use of printed stickers applied to the present carton and inserts until supplies are exhausted, or included on replacement cartons and inserts.

Section 112.7 is amended by adding a new paragraph (k) to read:

§ 112.7 Special additional requirements.

* * * * *

(k) In the case of Marek's Disease Vaccine, the recommended method of administration shall be limited to either "subcutaneously" or "intramuscularly." The following statement shall appear in bold print on the carton and insert:

"WARNING: GIVE (*insert one*) ONLY."

(37 Stat. 832–833; 21 U.S.C. 151–158).

Effective date. The foregoing amendments shall become effective October 22, 1975.

These amendments impose certain restrictions necessary to prevent the misuse of Marek's Disease Vaccine prepared in licensed establishments. They should be made effective promptly in order to be of maximum benefit and to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, DC, this 16th day of October, 1975.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-28474 Filed 10-21-75;8:45 am]

PART 113—STANDARD REQUIREMENTS

Miscellaneous Amendments

● Purpose: To provide procedures for testing for parvovirus contamination and retesting viral vaccines for virus titer and immunogenicity. ●

On June 17, 1975, a notice of proposed amendments to Part 113 was published in the FEDERAL REGISTER at 40 FR 25598.

On August 21, 1975, a notice of proposed amendments to Part 113 was published in the FEDERAL REGISTER at 40 FR 36572.

The fluorescent antibody test presently being used for detection of bovine virus diarrhea virus in primary cells of bovine origin has been editorially corrected for clarity of interpretation by these amendments and the technique has been adapted to the detection of porcine parvovirus in primary cells of porcine origin.

Porcine parvovirus is a common contaminant of primary cells of porcine origin and ingredients of porcine origin such as trypsin. As such, this virus could be carried through into the final product and be a potential danger to the recipient of the vaccine.

A fluorescent antibody test has also been developed for the detection of porcine parvovirus in trypsin. This test has been included in these amendments.

A Master Seed Virus immunogenicity concept for evaluating the potency of live virus vaccines by virus titer alone has been adapted to a number of biological products. Animal potency tests formerly conducted to evaluate serials of vaccine have been eliminated. These amendments provide an animal test procedure to be used by Veterinary Services to evaluate the potency of products eligible for release on virus titer. The Deputy Administrator would be authorized to take corrective action when indicated from the results of tests conducted by this procedure.

Test system errors could be responsible for destruction of serials of viral vaccines found to have less than the minimum required virus titer by a single test. These amendments provide criteria for retesting such products.

Comments on the June 17, 1975, proposal were received from seven licensees. Four changes were made for clarification of the test procedure in response to the suggestions received.

Comments on the August 21, 1975, proposal were received from five licensees. Two changes were made for clarification of the test procedure in response to the suggestions received. Two licensees recommended the inclusion of standard controls in the titration test system. Since these controls are not available at this time, the recommendation is impractical and has to be deferred until a later date.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice of rulemaking, and the constructive and helpful suggestions received from the comments, revisions of the material proposed were made for clarification of the procedures to be followed.

Pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (U.S.C. 151–158), the amendments of Part 113, Subchapter E, Chapter 1, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notices

are hereby adopted and are set forth herein subject to the following noted modifications:

An editorial change has been made in § 13.8(b)(2) for scientific accuracy.

Paragraph § 113.8(c)(1) has been reworded for clarification.

The words "from intact tissue" have been deleted from the third sentence of § 113.51(g) for scientific accuracy and clarity.

Paragraph § 113.53(c) has been reworded to permit use of methods other than sterilization to eliminate parvovirus from trypsin.

Details of the tests prescribed in § 113.53(c) (1) and (2) have been reworded for scientific accuracy and clarity.

1. Section 113.8 is amended by revising the heading; by revising the introductory portion of paragraph (a), and by revising paragraphs (a) (1), (2), and (3) graphs (b) (1), (2), (3), (3)(i), and (3)(ii); and by adding paragraphs (c), (c) (1), (2), (3), (4), (4)(i), and (4)(ii) to read:

§ 113.8 Virus titrations in lieu of animal test for immunogenicity.

(a) Master Seed Virus which has been established as pure, safe, and immunogenic shall be used for preparing the production seed virus for vaccine production when this requirement is included in the Standard Requirements for a virus vaccine. The Deputy Administrator may exempt a live virus vaccine from a required animal test for release when an evaluation of the vaccine can with reasonable certainty be made by:

(1) Subjecting the Master Seed Virus to the applicable requirements prescribed in § 113.135; and

(2) Testing the Master Seed Virus for immunogenicity in a manner acceptable to Veterinary Services; and

(3) Establishing a satisfactory virus titer based on a predetermined protective dose plus an adequate overage allowance for adverse conditions; and

(4) Conducting virus titrations on each serial and subserial in an accepted titration test system.

(b) Each serial and subserial of live virus vaccines derived from an approved Master Seed Virus shall be evaluated by a laboratory virus titration test and the vaccine either released to the firm for marketing or withheld from the market on the basis of the results of the test when compared with the required minimum virus titer. Except as provided in paragraphs (b)(4) and (c) of this section, the evaluation of such products shall be made in accordance with paragraphs (b)(1), (2), and (3) of this section.

(1) If the initial test shows the virus titer to equal or exceed the required minimum, the serial or subserial is satisfactory for virus titer without additional testing.

(2) If the initial test shows the virus titer to be lower than the required minimum, the serial or subserial may be retested, using two new samples. The average (geometric mean) of titers obtained in the retests shall be determined. If the average titer is less than the required minimum, the serial or subserial is unsatisfactory without further consideration.

(3) If the average titer is more than the required minimum, the following shall apply:

(i) If the difference between the average titer obtained in the retests and the titer obtained in the initial test is $10^{0.7}$ or greater, the initial titer may be considered a result of test system error and the serial or subserial considered satisfactory for virus titer.

(ii) If the difference between the average titer obtained in the retests and the titer obtained in the initial test is less than $10^{0.7}$, a new average shall be determined using the titers obtained in all tests. If the new average is below the required minimum, the serial or subserial is unsatisfactory.

(4) *Exceptions.* When a product such as, but not limited to, Marek's Disease Vaccine is evaluated in terms other than logs, a range shall be established to substitute for use in paragraphs (b)(3) (i) and (ii) of this section. Marek's Disease Vaccine shall have a range of 300 PFU's.

(c) Final container samples of completed product derived from Master Seed Virus found immunogenic in accordance with paragraph (a) of this section and found satisfactory for virus titer in accordance with paragraph (b) of this section may also be subjected to an animal potency test by Veterinary Services as provided in this paragraph. Liquid vaccine and rehydrated desiccated vaccines shall be used according to label directions including dose(s) and route of administration.

(1) A one stage test using 20 vaccinates and 5 controls or a two stage test using 10 vaccinates and 5 controls for each stage shall be used. Except as provided in paragraphs (c), (c)(1), (c)(2), and (c)(3), the tests shall be conducted in accordance with the test protocol used in the Master Seed Virus immunogenicity test including the criteria used for judging the specific response in the controls and vaccinates.

(2) If at least 80 percent of the controls do not show specific responses to challenge, the test is inconclusive and may be repeated. If a vaccinate shows the specific responses to challenge expected in the controls, the vaccinate shall be listed as a failure.

(3) The results of the testing shall be evaluated according to the following table:

CUMULATIVE TOTALS

Stage	Number of animals	Failures for satisfactory serials	Failures for unsatisfactory serials
1	10	1 or less	3 or more.
2 (or 1)	20	4 or less	5 or more.

(4) When a serial has been found unsatisfactory for potency by the test provided in paragraphs (c) (1), (2), and (3) of this section, the serial shall be withheld from the market and the following actions taken:

(i) The Deputy Administrator shall require that at least two additional serials prepared with the same Master Seed Virus be subjected to similar animal potency tests by Veterinary Services or the licensee or both.

(ii) If another serial is found unsatisfactory for potency, the product shall be removed from the market while a reevaluation of the product is made and the problem is resolved.

2. Section 113.51 is amended by revising paragraph (d) and adding a new paragraph (g) to read:

§ 113.51 Requirements for primary cells used in biological product production.

* * * * *

(d) Each batch of primary cells of bovine origin or each subculture of such cells used to prepare a biological product shall be shown free of bovine virus diarrhea (BVD) virus. The samples for testing shall consist of at least 10 monolayer cultures of cells, each with an area at least as large as a 10.5 x 22 mm coverslip. The samples for testing shall be obtained from at least the second subpassage from intact tissue. The cultures shall be grown to at least 80 percent confluenc: using the medium (with additives) intended for growth and maintenance and under conditions similar to those used to prepare the product. At least five of the cultures shall be inoculated with BVD virus as positive controls. All cultures shall be further incubated at 35 to 37° C for an additional 4 to 6 days. All cultures shall then be removed from their medium, processed, and stained with Bovine Virus Diarrhea Conjugate-Bovine Origin available from Veterinary Services upon request.

(1) If the uninoculated cultures show specific BVD virus fluorescence, the batch of primary cells is unsatisfactory without additional testing.

(2) If specific fluorescence attributable to BVD virus is absent in more than one of the cultures inoculated as positive controls or if the uninoculated cultures show a non-specific fluorescence suspicious of BVD virus contamination, or both, the test results are inconclusive and the test may be repeated. If the test is not repeated, the batch of primary cells is unsatisfactory.

(3) If a test is repeated, use:

(i) At least 10 additional monolayer cultures prepared from at least one subpassage from that used as a test sample; or

(ii) Fluids from the uninoculated cultures which shall be added to 10 monolayer cultures of cells known to be free of BVD virus and essentially equivalent in BVD virus susceptibility to primary bovine kidney cells.

* * * * *

(g) Each batch of primary cells of porcine origin or each subculture of such cells used to prepare a biological product shall be shown free of porcine parvovirus

(PPV). The samples for testing shall consist of at least 10 monolayer cultures of cells, each with an area at least as large as a 10.5 x 22 mm coverslip. The samples for testing shall be obtained from at least the second subpassage. The cultures shall be grown to at least 50 percent confluency using the medium (with additives) intended for growth and maintenance and under conditions similar to those used to prepare the product. At least five of the cultures shall be inoculated with PPV as positive controls. All cultures shall be further incubated at 35–37° C for an additional 4 to 6 days. All cultures shall then be removed from their medium, processed, and stained with Porcine Parvovirus Conjugate-Porcine Origin, available from Veterinary Services upon request.

(1) If the uninoculated cultures show specific PPV fluorescence, the batch of primary cells is unsatisfactory without additional testing.

(2) If specific fluorescence attributable to PPV is absent in more than one of the cultures inoculated as positive controls or if the uninoculated cultures show a nonspecific fluorescence suspicious of PPV contamination, or both, the test results are inconclusive and the test may be repeated. If the test is not repeated, the batch of primary cells is unsatisfactory.

(3) If a test is repeated, use:

(i) At least 10 additional monolayer cultures prepared from at least one subpassage from that used as a test sample; or

(ii) Fluids from the uninoculated cultures which shall be added to 10 monolayer cultures of cells known to be free of PPV and essentially equivalent in PPV virus susceptibility to primary porcine kidney cells.

3. § 113.53 is amended by adding a new paragraph (c) to read:

§ 113.53 Requirements for ingredients of animal origin.

* * * * *

(c) Each lot of trypsin which has not been treated to inactivate porcine parvovirus (PPV) in a manner acceptable to Veterinary Services shall be tested for PPV as provided in this paragraph.

(1) The trypsin shall be prepared as follows:

(i) Not less than 5.0 grams shall be dissolved in phosphate buffered saline sufficient to fill a centrifuge angle head. A centrifuge capable of producing 80,000 Relative Centrifugal Force shall be used.

(ii) After centrifuging for 1 hour, the pellet material shall be reconstituted in distilled water and inoculated into two flasks containing 30 to 50 percent confluent monolayer cultures of primary porcine cells or a porcine cell line of proven equal PPV susceptibility of at least 75 cm^2 area. An additional flask of cells shall be held as a negative control.

(2) When the inoculated flasks of cells are confluent, they shall be subcultured into additional flasks and held until they are also confluent. Each of the inoculated cultures and the negative control culture shall be dispersed into five Leighton tubes containing coverslips. When the cell cultures are at least 30 percent confluent, five of the cultures containing material being tested shall be inoculated with PPV as positive controls and returned to the incubator for an additional 4 to 6 days.

(3) All coverslips shall be removed from the tubes processed and stained with Porcine Parvovirus Conjugate-Porcine Origin, available from Veterinary Services upon request. Each coverslip shall be examined for specific PPV fluorescence and the test judged as follows:

(i) If any of the negative controls show specific PPV fluorescence or if more than one of the positive controls fails to show specific PPV fluorescence the test results are inconclusive and the test shall be repeated or the lot of trypsin discarded.

(ii) If the test results are conclusive and specific PPV fluorescence occurs in any of the 5 coverslips representing the material being tested, the lot of trypsin is unsatisfactory and shall be discarded.

(37 Stat. 9 CFR 151–158, U.S.C.)

Effective date: These amendments take effect November 24, 1975.

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

E. A. Schilf,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-28475 Filed 10-21-75;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Crude Oil Supplier/Purchaser Rule

On April 22, 1975 the Federal Energy Administration issued a notice of proposed rulemaking and public hearing (40 FR 18182; April 25, 1975) providing basically for three amendments to the crude oil supplier/purchaser rule (the "rule") set forth in 10 CFR 211.63. Written comments on the proposals were invited through May 21, 1975 and a public hearing was held on May 27, 1975.

Approximately forty written comments were received by FEA in response to this notice of proposed rulemaking and five oral presentations were made at the public hearing on May 27, 1975. Those filing comments and making oral presentations included independent marketers of crude oil, refiners and trade associations. FEA has considered all of the comments filed and statements presented in this proceeding and has determined to adopt as proposed the amendments with respect to the exemption of awards of Federal royalty oil from the coverage of the rule and inclusion within such coverage of crude oil supplier/purchaser relationships arising after December 1, 1973.

An additional amendment proposed in the April 22, 1975 notice would have effectively allowed the substitution of a new reseller of crude oil for the present reseller under certain conditions without the latter's consent. FEA has not yet made a final determination as to whether or in what form this proposed amendment should be issued, and accordingly is delaying final action on this proposed amendment until its analysis of the issue has been completed.

(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 16, 1975.

Robert E. Montgomery, Jr.,
General Counsel.

Section 211.63 is revised to read as follows:

§ 211.63 Supplier/purchaser relationships.

(a) All supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program, except purchases and sales made to comply with this program; *provided, however,* That (1) any such supplier/purchaser relationship may be terminated by the mutual consent of both parties; (2) the provisions of this paragraph do not apply to the first sale of crude oil pursuant to § 210.32 of this chapter; (3) the provisions of this paragraph shall not apply to the seller of any new crude petroleum or released crude petroleum, if the present purchaser of such crude petroleum refuses, after notice by the seller, to meet any bona fide offer made by another purchaser to buy such crude oil at a lawful price above the price paid by the present purchaser; and (4) the provisions of this paragraph shall not apply to the sale of any crude oil pursuant to Parts 225 and 225a, Chapter II of Title 30 of the Code of Federal Regulations.

(b) New crude petroleum and released crude petroleum produced and sold from a property from which new crude petroleum and released crude petroleum were not produced and sold in December 1973 may be sold in a first sale to any person.

(c) Once a first sale of new crude petroleum and released crude petroleum referred to in paragraph (b) of this section has been made or the sale of any crude oil that has at any time been the subject of a supplier/purchaser relationship under paragraph (a) of this section is made to a person that was not the purchaser thereof on December 1, 1973, the seller shall continue to sell that crude oil to the purchaser thereof as though a December 1, 1973 supplier/purchaser relationship were established under the provisions of paragraph (a) of this section.

[FR Doc.75-28344 Filed 10-17-75;9:42 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

[Regulation B]

PART 202—EQUAL CREDIT OPPORTUNITY

Final Rulemaking

On April 25, 1975, the Board of Governors of the Federal Reserve System published for comment (40 FR 18183) a proposed regulation (hereinafter referred to as the April proposal) to implement the Equal Credit Opportunity Act (Title V of Pub. L. 93-495, adding a new Title VII to the Consumer Credit Protection Act, Pub. L. 90-321). Section 703 of the Act directs the Board to prescribe regulations to carry out the purposes of the Act which prohibits discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction. Numerous comments were received and public hearings were held on May 28, and 29, 1975. In response to the comments received and the views expressed at the public hearing, the Board published a revised proposal on September 10, 1975 (40 FR 42030). After consideration of the additional comments received, the Board has made the following revisions in the proposal published on September 10 (hereinafter referred to as the September proposal).

SECTION 202.1—AUTHORITY AND SCOPE

The September proposal included a section (§ 202.1(a)(2)) which stated the purpose of the Equal Credit Opportunity Act. The Board has determined that this section need not be repeated in the regulation and, therefore, it has been deleted. An explanation of the Act's purpose may be found in Section 502 of the Act. It provides in part:

> Economic stabilization would be enhanced and competition among the various financial institutions and other firms engaged in the extension of credit would be strengthened by an absence of discrimination on the basis of sex or marital status, as well as by the informed use of credit which Congress has heretofore sought to promote. It is the purpose of this Act to require that financial institutions and other firms engaged in the extension of credit make that credit equally available to all creditworthy customers without regard to sex or marital status.

SECTION 202.3—DEFINITIONS AND RULES OF CONSTRUCTION

The title of this Section has been rewritten to reflect the fact that some of the definitions constitute rules of construction. Footnote 1 is intended to alert the reader to the fact that a number of the definitions are different from those used in Part 226 of this Title (Regulation Z). The differences, while generally small, may be significant in interpreting this Part.

SECTION 202.3(b)—DEFINITION OF "ACCOUNT"

A second clause has been added to the definition of the term "account." The phrase "'use of an account' throughout this Part refers only to open end credit" was part of section 202.4(c)(1) of the September proposal and has been moved to its present location because it more properly belongs in the definitional section. Inclusion of this phrase in no way implies that credit other than open end credit is exempted from the provisions of the Act or this Part (Regulation B); rather, the phrase serves to acknowledge that only an open end credit account is commonly referred to as being "used."

SECTION 202.3(c)—DEFINITION OF "APPLICANT"

This definition embraces two terms used by Congress in the Act, "applicant" and "debtor." Both the legislative history and the language of Section 701(a) of the Act demonstrate that Congress intended to reach discrimination on the basis of sex or marital status "in any aspect of a credit transaction." To simplify terminology, the single phrase "applicant" has been used throughout the Regulation.

The words "renewal, or continuation" have been added after the word "extension," the words "use of" have been inserted in place of the word "using", and the word "for" has been added in order to conform more closely to the precise statutory definition of the term.

SECTION 202.3(d)—DEFINITION OF "APPLICATION"

Minor clarifying changes have been made in the second sentence of this definition. The words "credit card" have been changed to "an existing credit plan," to indicate that for purposes of this Part, an "application" does not occur when a person uses an existing credit plan to obtain an amount of credit not exceeding a previously established credit limit, whether or not such credit plan is represented by a "credit card" as that term is defined herein.

FORMER SECTION 202.3(e)—DEFINITION OF "APPLICATION FORM"

The definition of "application form" has been deleted and remaining definitions relettered accordingly. Revisions in the treatment of oral and written applications (sections 202.4 (c) and (d) of the September proposal) obviated the need for such a definition.

SECTION 202.3(f)—DEFINITION OF "CONSUMER CREDIT"

The word "individual" has been changed to "natural person" and the word "money" added to conform to the terminology of Part 226 of this Title (Regulation Z).

SECTION 202.3(g)—DEFINITION OF "CONTRACTUALLY LIABLE"

The words "a debt" have been changed to "all debts arising on an account" to make it clear that only those individuals who are legally responsible for all of the debts incurred in connection with an extension of credit are encompassed in this concept. For example, an authorized user who by presentation or use of a credit card incurs liability to repay a specific debt but is not liable on the contract creating the account is excluded from the definition.

SECTION 202.3(i)—DEFINITION OF "CREDIT CARD"

The word "money" has been inserted to conform to terminology of Part 226 of this Title (Regulation Z).

SECTION 202.3(j)—DEFINITION OF "CREDITOR"

The words "renews or continues" and "renewal and continuation" have been added to conform to the statutory definition. The words "only if they" have been added to the second sentence of this definition and the word "and" substituted for the word "but" in that sentence. The changes are intended to emphasize that assignees, transferees and subrogees are not included in the definition of persons subject to the Act and this Part (Regulation B) unless they participate in the decision to extend credit, and that persons whose only participation in a credit transaction is to honor a credit card are not included because they do not so participate.

SECTION 202.3(l)—DEFINITION OF "DISCRIMINATE AGAINST ANY APPLICANT ON THE BASIS OF SEX OR MARITAL STATUS"

This provision is identical in content to the September proposal; it prohibits any unfavorable distinctions based on sex or marital status, even when supported by empirical or statistical data. Therefore, credit actions based on sex or marital status, although not on their fact arbitrary and capricious, are prohibited by the Act and this Part.

In response to public comment, the term defined here has been changed from "discriminate against" to "discriminate against any applicant on the basis of sex or marital status" in order to clarify that it is only those distinctions which the Act and this Part prohibit, not distinctions based on grounds other than sex or marital status. The following paragraphs of this section are relettered accordingly.

SECTION 202.4—APPLICATIONS

The September proposal contained a provision entitled "General" (former § 202.4(a)) which has been omitted because the public comments indicated that inclusion of this section created confusion. Specifically, several persons inquired whether this section was intended to preempt State laws relating to discrimination on the basis of sex or marital status which in some cases may be more restrictive than corresponding provisions of this Part. As explained below in connection with section 202.11(b), this Part preempts State law only where such law is inconsistent with this Part and where both State law and this Part cannot be satisfied. For example, because a creditor in Massachusetts can comply with the State law prohibiting any inquiry into marital status without violating this Part, the State law is not pre-empted.

SECTION 202.4(a)—DISCOURAGING APPLICATIONS

This section is substantially identical to the version in the September proposal (former section 202.4(b)). It requires a creditor to refrain from making any statements to an applicant or a prospective applicant that would discourage a reasonable person from applying for credit by suggesting that, because of the applicant's sex or marital status, the applicant is unlikely to receive credit privileges which would otherwise be available. The Board believes that this section is necessary to protect applicants against discriminatory acts occurring before an application is initiated.

SECTION 202.4(b)—SEPARATE ACCOUNTS

This section, which was not included in the September proposal, incorporates a requirement introduced in the April proposal (former section 202.3(b)(10)). It implements the prohibition contained in section 701(a) of the Act by requiring creditors that offer separate accounts to open a separate account for a person who satisfies the creditor's standards of creditworthiness regardless of sex or marital status. Thus, if a creditor offers separate accounts to unmarried applicants, it cannot require a creditworthy married applicant to apply for an account together with the applicant's spouse. The Act and the regulation do not require that creditors extend credit to an unqualified applicant, whether the applicant's lack of creditworthiness arises from some deficiency in the applicant's financial resources or from the effects of State property laws.

SECTION 202.4(c)—INQUIRIES AS TO MARITAL STATUS

This section allows inquiries as to marital status if:

(1) the application for credit is made in a community property state; or

(2) the credit requested is secured credit; or

(3) the type of credit requested is regulated by State laws regarding permissible finance charges or loan ceilings, and therefore falls fithin sections 705 (c) and (d) of the Act and section 202.8 of the final regulation; or

(4) the type of account requested is one which a spouse will be permitted to use or upon which a spouse will be contractually liable.

This section differs somewhat from the September proposal, which allowed marital status inquiries in all cases, but allowed the creditor to obtain only the name and address of the spouse. The Board determined, on further consideration, that the name and address of a spouse would not contribute substantially to a creditor's evaluation of the applicant's creditworthiness. Supplying the name and address of his/her spouse could be useful, however, to an applicant in the situation where the credit history of shared accounts is held in the name of the applicant's spouse. To accommodate that purpose, a new subsection (2) has been added to section 202.5(b).

This section necessarily allows marital status inquiries where the type of credit extended is regulated by State laws which, in effect, require a creditor to inquire as to marital status in order to fully comply with them. Finally, where an account is requested which a spouse will be permitted to use or upon which the spouse will be contractually liable, it is the applicant who has volunteered the fact of marital status, not the creditor who has inquired.

One of the major premises upon which Congress acted in passing the Act was its finding that credit discrimination was particularly prevalent in situations where creditworthy married women applied for separate accounts. While recognizing in Section 705 of the Act that marital status is relevant where a security interest in property is given, Congress dealt specifically with the question of inquiries of marital status and limited the scope of those inquiries to cases in which they were made "for the purpose of ascertaining the creditor's rights and remedies applicable to the particular extension of credit and not to discriminate in a determination of creditworthiness." The final regulation adheres to Congressional intent as expressed in the language of Section 701(b).

SECTION 202.4(c)(2)

Where inquiries of marital status are permissible, this subsection governs the form of such inquiries. The provision has remained unchanged since the April proposal, and is intended to prevent access to information concerning divorce or death of a spouse, since such information, in and of itself, does not affect an applicant's creditworthiness.

Inquiries are allowed as to whether an applicant is separated because the law in many States relieves a separated spouse from liability under a "family expense statute" or a "necessaries" doctrine. In addition, the law in many community property States makes each spouse's earnings separate, not community, property upon physical or legal separation without divorce. Thus, the fact of separation may be relevant to creditors in some States because it affects their legal remedies.

SECTION 202.4(c)(3)

The substance of this provision also appears in section 202.5 (c) and (d) of this Part but it is repeated here to clarify that although a creditor cannot ask whether an applican. is divorced, a creditor may inquire as to the payment or receipt of alimony, child support or maintenance.

In response to public comment, a proviso has been added to this subsection which requires the creditor to disclose that if the applicant does not choose to rely on alimony, child support or maintenance payments to obtain the requested credit, the applicant need not reveal the fact of their existence. This disclosure requirement has been added to protect those applicants who may wish to rely on other sources of income in applying for credit rather than revealing the fact of a former marriage.

SECTION 202.4(c)(4)

The first sentence of this subsection is identical to the September proposal except that the word "prominently" has been replaced by "conspicuously" to conform to the terminology of Part 226 of this Title (Regulation Z).

The second sentence of this subsection is substantially identical to former section 202.3(a)(3) of the April proposal and has been added in response to public comment. Its purpose is to allow an applicant who so chooses to avoid revealing his or her sex. In some instances, however, enforcement agencies may wish to know the sex of applicants in order to review compliance with the Act by a creditor or group of creditors; that possibility is specifically provided for here.

SECTION 202.4(d)—EQUAL CREDIT OPPORTUNITY ACT NOTICE

Paragraph (1) of this section explains the situations in which a creditor must deliver to the applicant a notice regarding the Act. Paragraph (2) of this section explains the manner in which the notice is to be delivered. The final version of this section incorporates material contained in sections 202.4(c)(5) and 202.4(d) of the September proposal.

The Board is of the opinion that effective enforcement of the Act requires that the public be alerted to the existence of the general rule prohibiting discrimination on the basis of sex or marital status. Therefore, the Board has adopted this provision which requires creditors to print a notice on their application forms and provide applicants with a copy of it or deliver it to their customers on a separate sheet of paper.

Paragraph (1) provides that the notice need not be delivered in two situations. The Board believes that delivery of the notice is not practicable where an application is made by telephone; and where a customer applies orally for an amount of credit to exceed an existing limit on an open end account, the customer will have received such notice when the account was first opened.

The wording of the notice differs slightly from the version in the September proposal. The changes were made in the interest of brevity and to more closely conform to the language of the Act itself. Each creditor subject to this provision should insert the appropriate descriptive word in the first parenthesis and the name and address of the appropriate enforcement agency in the second parenthesis. A state-chartered member bank, for example, should insert the word "bank" in the first parenthesis and the name, city, state and zip code of the Federal Reserve Bank of which it is a member in the second parenthesis. Creditors other than State-chartered member banks should contact the appropriate enforcement agency to ascertain the address such agency wishes to use.

The September version of section 202.4 (c) would have required all creditors to

print the notice on their application forms. Public comments suggested that, in view of the myriad of styles and format of application procedures, the Board should provide creditors with an optional method of providing the notice. The Board is of the opinion that affording such an option will help achieve the desired result, namely, placing the notice in the hands of the applicant at a meaningful time and in a form the applicant can retain.

A creditor satisfies the requirements of this Part if it either: (1) Prints the notice on its application form and gives the applicant a copy of such form to retain, or (2) prints the notice on a separate sheet of paper and delivers such paper to the applicant at the time the application is made or delivers or mails it to the applicant as soon as practicable thereafter.

SECTION 2024(c)—DESIGNATION OF NAME

The phrase "using a particular name on the basis of sex or marital status" has been deleted and replaced by "opening or maintaining an account in a birth-given first name and surname or a birth-given first name and a combined surname." Public comment indicated that the language of the September proposal seemed to permit the selection by an applicant of virtually any name. Consumer representatives pointed out that the language of the September proposal would permit a creditor to adopt a policy forbidding both male and female applicants from using a hyphenated surname.

Under section 202.4(e) as revised, a creditor could not require an applicant to use a spouse's first or last name, although an applicant could use such a name if desired. Applicants could use their own first names, maiden names and if desired, married names. Applicants who hyphenate their last name would be permitted to open and maintain credit accounts in those names.

SECTION 202.5(a)—EVALUATION OF APPLICATIONS: GENERAL

Formerly, this provision allowed a creditor to consider any information not prohibited by the Act or this Part and to deny an application where an applicant was unwilling to provide information necessary to an evaluation of creditworthiness. As with a similar provision in former section 202.4(a), many comments pointed out that some State laws might prohibit the requesting or consideration of information not specifically dealt with in this Part and that this provision, therefore, might be construed as pre-empting such laws. In order to clarify that State law is not pre-empted where a creditor is able to comply with this Part and State law, this provision has been deleted and a specific provision to that effect added in Section 202.11(b).

SECTION 202.5(a)—CONTINUED ABILITY TO PAY

The thrust of this provision was contained as a second sentence in section 202.5(h) of the September proposal, which allowed creditors "to request and consider information concerning the probable continuity of an applicant's ability to repay." In response to a large volume of comments suggesting that the placement of this sentence in the same section which prohibited inquiries as to childbearing capability was confusing, the sentence has been placed in a separate section to emphasize that it applies broadly.

In addition, two qualifying phrases have been added to emphasize that inquiries as to probable continuity of an applicant's ability to repay must be made without regard to sex or marital status. First, the phrase "except as otherwise provided in this section" has been added to refer readers to the prohibitions contained in section 202.5(h) against inquiries as to childbearing capability or intentions, and the use of statistics or assumptions that a group of persons is likely to discontinue employment. Next, the phrase "without regard to sex or marital status" has been added at the end of the new section to indicate that questions concerning the probable continuity of ability to repay can be asked and considered only if this is done without discrimination based on sex or marital status. The word "any" has been added to clarify that the creditor may ask for any information which is relevant to the determination of the probable continuity of the applicant's ability to repay, so long as such information is requested and considered without regard to sex or marital status.

SECTION 202.5(b)—INFORMATION ABOUT A SPOUSE OR FORMER SPOUSE

This provision remains largely as it appeared in the September proposal but has been re-written for clarity. It allows a creditor to request and consider any information concerning a spouse which could be considered about an applicant in the four situations set forth in the section. The need to allow creditors full access to information in these four situations is explained briefly below.

Where a spouse will use the account, a creditor is permitted to seek all relevant information concerning the spouse. Under the law in some States and under the terms of many specific extensions of credit, a spouse who is not contractually liable on the account is legally liable for each particular extension of credit made to him or her; thus, where a spouse who is not a co-applicant will be permitted to use the account and receive credit under it, a creditor may ultimately seek repayment from that spouse rather than the applicant. A creditor is therefore allowed to evaluate the user's creditworthiness along with the applicant's.

Where a spouse will be contractually liable on an account, the spouse is, in fact a co-applicant under the definitions of "applicant" and "contractually liable" contained in Sections 202.3 (c) and (g) of this Part. Creditors may always, of course, seek information about any applicant not prohibited by the Act, this Part, or other applicable State or Federal laws.

In response to comments, the substance of subsection 202.5(b)(1)(iii) has been added. Where an applicant relies on community property as a basis for creditworthiness, the creditor needs access to all information about both spouses, since either can create debts which are collectible from the other's earnings in many community property States. Where an applicant seeks credit in separate property States relying on the income of the other spouse—a situation particularly common in retail credit—the creditor needs the information relevant to an assessment of the creditworthiness of the non-applicant spouse.

Finally, of course, where an applicant relies on alimony, child support or maintenance payments, it is appropriate for the creditor to consider the creditworthiness of the payor; this section has remained essentially unchanged since first published in the April proposal.

Formerly, this section permitted a creditor to ask the spouse's name and address in all circumstances. Here, in accordance with the approach taken in section 202.4(c), this Part allows a creditor to seek information about a spouse only in the situations set forth in section 202.5(b)(1). Although that group of situations will cover a large number of credit applications, there will be some cases in which a creditworthy married person will want to apply for credit without revealing marital status or any information about a spouse. In such circumstances, a creditor must evaluate the applicant on his/her own merits. A creditor may, however, under section 202.5(b)(3), ask the name in which an account is carried if the applicant chooses to disclose the account in applying for credit. This provision is directed at a situation in which an applicant wishes the creditor to refer to the credit history of an account shared with another person which can be accessed only in a name other than the applicant's.

SECTION 202.5(c)—ALIMONY, CHILD SUPPORT AND MAINTENANCE OBLIGATIONS

This provision, which is unchanged from the September proposal, provides that a creditor may inquire as to obligations of an applicant involving payment of alimony, child support or maintenance, regardless of the fact that an affirmative response may indicate the applicant's marital status. The specific mention of certain types of obligations does not imply that a creditor may not inquire about other obligations of an applicant.

SECTION 202.5(d)—ALIMONY, CHILD SUPPORT AND MAINTENANCE INCOME

A new clause has been added at the end of paragraph (1) and some conforming changes made in language. Paragraph (2) prohibits a creditor from automatically discounting income derived from alimony, child support or maintenance payments based on a general belief that income from these sources is inherently unreliable. However, recognizing the justification for

treating income from these sources differently from earned income in some cases, the September proposal would have permitted the creditor to ask an applicant whether the income upon which the applicant is relying for the particular extension of credit is derived from any of these sources.

The comments received made it clear that some members of the public read this provision as permitting creditors to ask every applicant whether the applicant receives any alimony, etc., when, in fact, the proposal was intended to permit a creditor to ascertain only whether the income upon which the applicant is relying is derived from these sources. For example, a person whose earned income is supplemented by a small amount of alimony may not need to rely on the alimony to qualify for the requested credit. Paragraph (1) has been clarified to provide that a creditor must first disclose to the applicant that such information need not be revealed if the applicant does not choose to rely on such income to obtain the requested credit.

The first sentence of paragraph (2) has been modified in order to emphasize the approach explained above and editorial changes have been made to clarify the meaning of the final clause of the second sentence.

SECTION 202.5(e)—DISCOUNTING INCOME

This provision prohibits a creditor from discounting income on the basis of sex or marital status. It also prohibits the discounting of income solely because it is derived from part-time employment; however, it allows a creditor to consider the probable continuity of such income in evaluating creditworthiness. The Board believes that because the majority of the part-time workforce are women, a practice of automatically discounting all part-time income has a disproportionately heavy impact on one sex.

In response to public comment, the provision concerning part-time income has been moved to a separate sentence, and the authorization to consider the probable continuity of such income was added. The clause allowing creditors to consider the probable continuity of such income in evaluating creditworthiness encourages creditors to focus on the factors relevant to an evaluation of part-time income—duration, permanence and stability—not its part-time nature as such.

SECTION 202.5(f)—CREDIT SCORING

The wording of section 202.5(f) relating to "credit scoring" has been slightly modified from the September proposal to clarify it and make it conform more closely to the language of the statute. The substance remains the same—that sex or marital status may not be taken into account in a credit scoring system or other method of evaluating credit applications.

Comments received from some creditors urged the Board to have this Part permit the use of marital status in certain forms of credit scoring; but after careful consideration the Board is of the opinion that their arguments do not accord with the Act and the legislative history. In light of the wording of the statute, especially section 701(a) and the proviso in section 705(a), and the fact that the Senate Committee report on S.2101 specifically cited "credit scoring systems that apply different values depending on sex or marital status" as an example of improper discrimination (S. Rep. No. 93-278, 93rd Cong., 1st Sess., June 28, 1973, p. 17), the Board has concluded that the Act does not permit sex or marital status to be taken into account in credit scoring systems.

SECTION 202.5(g)—TELEPHONE LISTING IN APPLICANT'S NAME

The wording of this section has been modified to conform to the change made in section 5(f), for the reasons stated therein.

A creditor may ask the applicant to supply a home telephone number and may assign a value in a credit scoring plan to the existence of such telephone. However, a creditor may not give weight to whether such telephone is listed in the applicant's name.

SECTION 202.5(h)—CHILDBEARING

The title of this section has been altered to reflect the removal of a sentence relating to continued ability to repay.

Three major changes have been made in language of this section in response to public comment. (1) The phrase "intentions or" has been inserted before the word "capability" in the first sentence. (2) The former second sentence, "However a creditor may request and consider information concerning the probable continuity of an applicant's ability to repay," has been removed and has become the new section 202.5(a) entitled "Continued Ability to Repay." (3) A new second sentence has been added.

The addition of the words "intentions or" is intended to clarify and strengthen the prohibition against a creditor asking about an applicant's plans or expectations to have children or the applicant's physical or mental capacity for childbearing. The sentence relating to probable continuity of ability to repay has been relocated to correct the erroneous assumption reflected in several comments that childbearing is associated with discontinuity in ability to repay or with diminished creditworthiness.

The second sentence was added to make it clear that a creditor may not consider statistics or assumptions concerning the probability that a male or female applicant or spouse of an applicant will be likely to have a certain number of children or cease employment to bear or raise children.

SECTION 202.5(i)—CHANGE OF NAME OR MARITAL STATUS

This provision prohibits a creditor from terminating an open end account, requiring a reapplication or changing the terms of an open end account, where the applicant is contractually liable on the account, on the basis of a change of name or marital status in the absence of evidence of inability or unwillingness to repay. For example, two consecutive missed payments may constitute such evidence. Since women often change their names upon a change in marital status, and the change thus becomes readily apparent, they have been subjected to adverse creditor action after a change in marital status more often than have men.

The phrase "with respect to a person who is contractually liable" has been added to the provision to exclude from its protection spouses who are only "users" of accounts. Comments on the September proposal pointed out that only those who are contractually liable may be readily reached for payment of debts.

Paragraph (2) has been added in response to comments noting that where credit was extended based solely on the earnings of a former spouse, a creditor has a legitimate need to require a reapplication in order to re-evaluate creditworthiness.

SECTION 202.5(j)—CREDIT HISTORY

This section requires a creditor to consider the credit history of accounts that the applicant shares with a spouse. It does not require the creditor to consider credit history in all cases but only if the creditor would consider the credit history of a similarly situated applicant. The phrase "include, in evaluating creditworthiness" replaces the word "consider" in the September proposal to make it clear that the information described in this section is not the only information the creditor may consider in evaluating creditworthiness.

Subparagraph (1) describes the credit history which the creditor must consider by referring to the accounts designated as required by section 202.6 as accounts which the applicant and a spouse are permitted to use or for which both are contractually liable. See the explanation under Section 202.6 below which sets forth the reasons for this requirement. The language "and accounts reported in the applicant(s) name or names as listed in the application" has been deleted from this paragraph. The Board believes that creditors do not customarily refuse to consider such information.

A new clause has been added at the end of subparagraph (1). It requires the creditor, upon the applicant's request, to consider any information offered by the applicant which tends to indicate that the credit history of the shared account is not an accurate reflection of the applicant's creditworthiness. The Board added this provision in response to public comment. The persons commenting felt that an applicant should be permitted to show why a particular credit history, although reported in both spouses' names, does not truly reflect one spouse's use or responsibility for the account.

Subparagraph (2) is substantially identical to the provision that appeared in the September draft. It is intended to permit an applicant to demonstrate that the credit history of a particular account which is reported only in the applicant's spouse's name, should be con-

sidered by the creditor in evaluating the applicant's creditworthiness. This provision is deemed necessary because the reporting requirements mandated by this Part will not affect all existing accounts which are shared by both spouses. Many such accounts will continue to be reported in the husband's name even though both spouses share the responsibility for and use of the account.

FORMER SECTION 202.5(k)—DELAY IN EVALUATING APPLICATIONS

Former section 202.5(k) prohibited a creditor from unreasonably delaying a decision on an application for credit on the basis of sex or marital status. Since the substance of this provision is now contained in section 202.5(m) relating to notification of action taken, former section 202.5(k) is not needed. Section 202.5(m) requires a creditor to notify an applicant of action taken within a reasonable time.

SECTION 202.5(k)—USE AND RETENTION OF PROHIBITED INFORMATION

This provision, which is substantially identical to the September proposal, forbids the use of any information prohibited by the Act or this Part in evaluating applications. However, to avoid the expense to creditors and credit reporting agencies of requiring them to purge their files of prohibited information obtained prior to the effective date of the Act, this provision allows creditors to receive and retain prohibited information where it is obtained from any source prior to June 30, 1976. In addition, recognizing that a creditor may be given prohibited information by a credit reporting agency or an applicant may volunteer prohibited information, this section provides that a creditor may retain information from these sources regardless of the date it is received.

The date prior to which prohibited information may be obtained by a creditor from any source and thereafter retained in its files without violating this Part has been changed from November 1, 1976, to June 30, 1976. This change was made to comport with the effective dates of sections 202.4 and 202.5 relating to application forms and procedures, which become effective no later than June 30, 1976. Since a creditor may not ask for any information prohibited by this Part after June 30, 1976, the retention in its files of solicited prohibited information is not protected after that date.

SECTION 202.5(l)—STATE PROPERTY LAWS

The language of this provision is identical to section 705(b) of the Act and was included in the September proposal in order to provide a full exposition of the Act in this Part. This section allows a creditor to consider state property laws that affect an applicant's creditworthiness in accordance with the Act and the regulation. Among the state laws that may be considered by a creditor under this section are laws relating to the doctrines of agency between the spouses; "necessaries"; and "family expense statutes." Also included are principles of community property management, as those principles affect an applicant's creditworthiness.

SECTION 202.5(m)—NOTIFICATION OF ACTION TAKEN AND REASONS FOR DENIALS

The April proposal would have required that a creditor supply any applicant who was denied credit, upon request, with a "clear and meaningful" statement in writing of the reasons for such denial. Public comment from consumers applauded the requirement but urged that the statement be supplied automatically in all cases. Public comment from creditors objected to the administrative burden and expense of supplying such statements, questioned their usefulness, urged that oral explanations are customarily given upon request, and alleged that the term "clear and meaningful" was vague and uncertain. Some comments of both creditors and consumer suggested that a check-off form describing standard reasons for denial would be preferable. The Board omitted any such requirement from the September proposal.

Numerous public comments as well as comments from other Federal agencies charged with responsibility for administering compliance with the Act objected to the omission of a requirement that rejected applicants for credit be given a written statement of reasons for such denial. The principal grounds urged for such objections were that the omission could significantly impede both private and agency efforts to enforce the Act and this Part.

After carefully considering the various comments described above, the Board has determined that reasons should be given to the applicant upon request if credit is denied or if after having been granted the credit is terminated. The applicant may request the reasons for such denial either orally or in writing, and the reasons may be given orally or in writing. A suggested form for supplying reasons in writing is included in the regulation. Use of this form will satisfy the requirements of the section but a creditor may develop its own form and is not required to use the suggested form.

Section 202.5(n) of the September proposal has been relettered section 202.5(m)(1) and contains the substance of the former section with minor editorial clarification. A new section 202.5(m)(2) contains the provisions relating to a statement of reasons for denial or termination of credit just described. A new section 202.5(m)(3) provides that a creditor may design its own form or methods to supply such a statement, but sets forth a sample form which would, when completed and supported by the facts, satisfy the requirements of section 202.5(m)(2).

SECTION 202.6—FURNISHING OF CREDIT INFORMATION

This section sets forth certain requirements for the furnishing of credit information about the accounts of married persons to consumer reporting agencies and others. It is designed to ensure that, when the payment history of accounts is furnished to other creditors or consumer reporting agencies, such information be furnished in such a manner that it is accessible in the name of each spouse who will either use the account or be contractually liable for it.

A frequent complaint voiced by women during hearings leading to the passage of the Act and in the public comments on the proposed Regulation was their inability to obtain credit because the credit history of accounts shared with their husbands was maintained and reported only in the husbands' names. The April and September proposals sought to remedy this problem by requiring that credit history be reported in the names of each spouse if each was contractually liable for or authorized to use the account.

In commenting on the proposals, many creditors objected to the concept of applying the credit history of an account to one who is merely authorized to use but not liable for an account and urged the Board to limit the applicability of the credit history to persons who had the actual responsibility for repaying the debt.

Because of the varied and complex State laws which hold one spouse liable for the debts contracted by the other and the fact that, under these laws, the user of an account will often be liable for repayment, this Part adopts the view that a spouse who signs an obligation and, in the case of open end credit, a spouse who is permitted to use an account shall have the benefit, or burden, of the credit history of that obligation. A further reason for adopting this approach is that a spouse who uses an open end account, even when not liable for it, will often play a significant role in the maintenance of that account such as paying the monthly balance, budgeting the income and expenditures and contributing to the income. Thus, the payment history will often be as much the product of the user's contribution as that of the obligor.

Because of the extensive procedural, mechanical, and programming changes that are necessary to implement the requirements of this section even as to new accounts, section 202.14 of this Part provides for a one year transition period. This section treats new accounts differently from existing accounts (those opened prior to November 1, 1976) by permitting creditors to inquire of existing account holders whether they wish to have information about their accounts reported in the name of each spouse, and by making the change only for those who so request. This was done to avoid the enormous cost of requiring every creditor to search the files of each existing account, determine which accounts are subject to the change and then make the necessary change.

SECTION 202.6(a)—ACCOUNTS ESTABLISHED ON OR AFTER NOVEMBER 1, 1976

Minor editorial changes have been made in order to clarify this provision. Section 202.6(a)(1)(i) requires the creditor to determine which accounts, of those established on or after November 1, 1976 will be used by both spouses or for which both spouses will be contractually liable. This Part does not require the

creditor to offer any particular type of account. This provision replaces the requirement in section 202.4(c)(1) and (2) of the September proposal which would have specifically required that the application form include a question designed to elicit the necessary information.

Section 202.6(a)(1)(ii) requires the creditor to designate accounts described in regard to paragraph (i) above to reflect the participation of both spouses. Section 202.6(a)(2) requires the creditor, when furnishing information to consumer reporting agencies or others regarding designated accounts, to furnish the information in the following way: When the information is requested by another creditor or other direct user, it must be furnished in the name of each spouse for which such information is requested. When the information is furnished in a manner which will enable such agencies to provide access to such information in the name of each spouse. This section does not impose any requirements on creditors that do not furnish information about their accounts to consumer reporting agencies or others.

Because there are many different types of information storage systems used by consumer reporting agencies, this paragraph does not attempt to prescribe for the creditor the method of conveying the information to the consumer reporting agency. Since creditors and consumer reporting agencies customarily operate under cooperative arrangements to provide credit information, the Board expects that together they will devise the most efficient means of insuring that credit information is accessible in the name of each spouse consistent with the requirements of this Part.

SECTION 202.6(b)—ACCOUNTS ESTABLISHED PRIOR TO NOVEMBER 1, 1976

Editorial changes have been made to clarify the meaning of this provision. With regard to all accounts established prior to November 1, 1976, the creditor may choose one of two methods of determining which accounts will be reported in the name of each spouse. Section 202.6(b)(1)(i) provides that if a creditor already has information for all of its accounts which indicates the accounts for which both spouses are contractually liable, or in the case of open end credit, the accounts that both are permitted to use, the creditor may, if it chooses, appropriately designate those accounts and furnish the information about them in the name of each spouse as set forth in section 202.6(a)(2). The creditor must designate its account and begin reporting information in the prescribed manner not later than November 1, 1976. If a creditor follows this procedure, it need not mail the notice required by section 202.6(b)(1)(ii).

Section 202.6(b)(i)(ii) requires the creditor who chooses not to follow section 202.6(b)(1)(i) to mail a notice described below to married account holders or to all accountholders. The notice describes the importance of having a credit history in one's own name and offers married persons the opportunity to have the credit history of their account furnished in both spouses' names. Several changes have been made in the September proposal in response to numerous comments asking for clarification. The phrase, "in whose name the account was carried" was added to show that only one notice need be sent for each account and that the notice may be sent to the account holder. To make it clear that the notice need not be sent in the case of inactive open end accounts, an open end creditor satisfies the requirement by mailing the notice only to those accounts for which any statement is sent between November 1, 1976 and February 1, 1977. The last sentence was included to permit creditors to supplement the prescribed notice with a request for information which would enable them to identify the account. The phrase "accompanied by a return envelope addressed to the creditor" has been deleted.

The language of section 202.6(b)(2) has been changed to make it clear that this Part does not require a creditor to change the manner in which it reports information to consumer reporting agencies and others until after November 1, 1976. After that date, the change in reporting procedure must commence within 90 days after receipt of a request from the applicant to do so. The second sentence has been changed to make it consistent with the change in section 202.6(a)(2) regarding the manner of furnishing credit information to consumer reporting agencies and others.

Section 202.6(b)(3) has been added to implement the change in the prescribed "Notice to Married Persons" described below.

In response to public comment, one change has been made in the prescribed "Notice to Married Persons." Several comments expressed concern that by signing the request to have the account reported in the name of each spouse, each spouse would become contractually liable to repay the account where only one was liable on the original agreement. The added language makes it clear that the placing of a signature on the request will not result in any different or greater liability than existed under the original agreement.

SECTION 202.7(a)—REQUEST FOR SIGNATURE OF A SPOUSE OR OTHER PERSON: GENERAL

This provision is corollary to section 202.4(b), which requires a creditor to offer separate accounts to *creditworthy* applicants. This section expressly prohibits a frequent discriminatory practice mentioned in the legislative background of the Act, namely requiring a female applicant to obtain a co-signer or a co-applicant regardless of the applicant's creditworthiness. Both this provision and section 202.4(b) prohibit a creditor from requiring a second signature, whether of a spouse or another person, on the basis of sex or marital status.

The provision has been re-worded in the negative in response to comments which indicated confusion over the meaning of the September proposal. Also, in order to clarify that sections 202.7(b) and (c) set forth situations in which a creditor may request a spouse's signature in reliance on provisions of state law, a specific reference to those sections has been included.

SECTION 202.7(b)—UNSECURED CREDIT IN COMMUNITY PROPERTY STATES

The substance of this provision has not been changed since the April proposal. It is intended to provide guidance for creditors in community property States as to how section 202.4(b) and section 202.5(1) affect the routine practice of requiring a spouse's signature to open an unsecured separate account in community property States.

Section 202.4(b) provides that "a creditor shall not refuse to grant a separate account to a creditworthy applicant on the basis of sex or marital status." As noted above, the word "creditworthy" in that section allows creditors to apply their own standards of creditworthiness, provided that they are imposed without regard to sex or marital status. Inclusion of "creditworthy" also allows creditors to consider state property laws which affect a married person's creditworthiness, as expressly allowed by section 705(b) of the Act and section 202.5(1) of Regulation B.

Thus, for example, a creditor in Louisiana may require that an employed married woman obtain the signature of her spouse when applying for a separate unsecured account because Louisiana law presently denied a married woman the power to manage and control her own earnings.

It should be noted that under the express provisions of sections 202.4(c) and 202.5(b) of Regulation B, a creditor in a community property State may always: (1) inquire as to marital status in order to ascertain whether earnings of an applicant *are* community property and therefore the provision under discussion is applicable; and (2) obtain all necessary information about the spouse of an applicant where community property is relied upon in order to correctly assess the creditworthiness of the community. In addition, section 202.5(i)(2) expressly permits a creditor who has extended open end credit based on income other than the applicant's to require reapplication after a change in marital status.

SECTION 202.7(c)—SIGNATURES ON CERTAIN INSTRUMENTS

This provision, like section 202.7(b), is an exception to the general rule stated in section 202.7(a). As specifically recognized by Section 705(a) of the Act, a spouse's signature may be legally necessary where an applicant applies for a separate account if the account is to be secured by property in which the applicant's spouse has an interest or a potential interest under state law. In such situations, both the Act and this section allow a creditor to continue to protect its legitimate need to obtain a valid security interest by requiring the joinder of the applicant's spouse on the instrument. The clause "under the applicable statutory or decisional law of a State" has

been moved for clarification. In addition, the word "so" has been added before the word "necessary" to indicate that the creditor must reasonably believe that requiring the signature of both is legally necessary to obtain the security interest in question.

It should be noted that where a secured separate account is sought, section 202.4(c) always allows creditors to inquire as to marital status in order to make the determination under this section of whether a spouse's signature is legally necessary on any security which is the basis for the transaction.

SECTION 202.8—SEPARATE ACCOUNTS IN RELATION TO STATE LAW

The title of this section has been changed to more accurately reflect its contents.

SECTION 202.8(d)—SEPARATE ACCOUNTS IN RELATION TO STATE LAW

This provision incorporates Section 705(c) of the Act which pre-empts any State law that would prohibit a creditor from offering separate accounts to each party to a marriage. This section permits a creditor to offer separate accounts to married applicants and should be read in conjunction with Section 202.4(b) which forbids a creditor from refusing to grant a separate account to a creditworthy married applicant because of sex or marital status.

The second sentence of this subsection, also taken from the Act, provides that, where a State law prohibiting separate extension of credit is pre-empted by this section, the applicant spouse shall be the sole person responsible for the debt. This means that in States that have laws prohibiting separate extensions of credit for married persons, this section of the regulation will not only pre-empt such laws but also any other provision of State laws which would hold one spouse responsible for the debts contracted by the other, for example, a family expense statute.

The third sentence of this subsection in the September proposal has been deleted. It explained that in a community property State, a creditor may enforce one spouse's obligation as separate, post-nuptial debts are enforced under State law. This sentence was intended to provide guidance for creditors; however, public comment indicated it caused more confusion than it resolved.

SECTION 202.8(b)—FINANCE CHARGES AND LOAN CEILINGS

This provision incorporates Section 705(d) of the Act, which provides that when separate extension of credit are made to each party to a marriage, such accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under State or federal law. This provision overrides those State laws which prohibit a creditor from establishing separate accounts for married persons in order to prevent creditors from collecting higher finance charges or lending greater amounts than would be permitted if the loan were made jointly to the married couple. In accordance with Sections 705 (c) and (d) of the Act, this provision permits the creditor to collect higher finance charges and exceed the loan ceiling that would be applied to a married couple's joint account, if each party to the marriage separately and voluntarily applies for and obtains a separate account from the same creditor.

The second sentence of this subsection explains how a creditor should determine permissible loan ceilings for each spouse when either one requests a separate account and they already have a joint account outstanding with the same creditor. Each spouse may obtain a separate account from a creditor up to an amount equal to the difference between any joint account they may have with that creditor and the permissible loan ceiling in the state. The amount outstanding in their joint account, not the face amount of the original loan, determines how much more they may borrow, either jointly or individually, under the permissible loan ceiling.

SECTION 202.9—PRESERVATION OF RECORDS

The April proposal would have required creditors to keep records of applications for two years after the date of taking final action on requests for credit. In view of the fact that the statute of limitations under the Act is one year from the occurrence of the violation, the Board in the September proposal reduced the period to one year. Public comment received from creditors took the position that even a one-year retention period would impose a serious cost burden and suggested that a shorter period would be adequate or that records of accepted applications need not be retained while consumers and enforcement agencies urged the Board to lengthen the retention period.

After considering the comments received, and weighing the cost and administrative burden of recordkeeping against the possible enforcement difficulties, the Board concluded that records of all applications should be maintained for a 15 month period.

In subsection 202.9(a)(1), The Board also substituted the words "gives the applicant notice of action" for "takes final action" in order to provide a more definite point from which to measure the time during which records of applications must be preserved.

Some comments suggested that the Board add a reference to microfilm and microfiche after the word "copy." The Board is of the opinion that such information storage systems are included in the meaning of the term "copy" and a specific reference to microfilm and microfiche in this Part is not necessary.

In subsection 202.9(a)(1) the words "or recorded" were added to cover information recorded in other than written form, for example on computer storage discs. The words "an application" were substituted for "creditworthiness" as a clarifying change. In subsection 202.9(a)(2) the word "written" was added to clarify that oral statements need not be reduced to writing and preserved.

A new subsection 202.9(b) has been added to impose requirements parallel to those set forth in 202.9(a) upon actions that adversely change the terms or conditions of credit for an account.

Editorial changes have been made in section 202.9(c) to clarify that the agency referred to is the agency charged with responsibility for monitoring compliance as to the particular creditor, and that the information to be retained is the information required in subsections 202.9(a) and 202.9(b).

SECTION 202.10—CERTAIN SPECIALIZED CREDIT

The title of this section has been changed to reflect its expanded scope.

SECTION 202.10(a)—GENERAL

This section outlines the manner in which certain types of credit and certain groups of creditors are affected by Regulation B. It provides that any creditor that extends incidental credit, business credit, securities credit or public utilities credit is subject to the general rule stated in section 202.2 prohibiting discrimination on the basis of sex or marital status with respect to any aspect of a credit transaction. In addition, any such creditor also must comply with the provisions of sections 202.1 and 202.3, section 202.4(a) which relates to the discouraging of applications, section 202.4(b) which relates to separate accounts of qualified persons, section 202.4(e) relating to the applicant's designation of name and sections 202.11, 202.12 and 202.13. Incidental, business, securities and public utilities credit also are subject to other provisions of Regulation B as explained below. If an extension of credit falls within more than one subsection, it is subject to each, unless the credit is securities credit, in which case only the provisions of sections 202.10(a) and 202.10(d) apply.

SECTION 202.10(b)—INCIDENTAL CREDIT

Former section 202.10(b) has been revised for clarification and has become section 202.11(a).

Numerous public comments urged the Board to consider providing a limited exemption from certain procedural requirements of Regulation B for persons that, while covered by the Act's broad definition of "creditor," permit their customers to defer payment of debt as a convenience and are not in the business of extending credit. For example, doctors and dentists typically permit their patients to defer payment of fees. Such persons are, therefore, extending credit but such activity is incidental to the principal activity of health care. Small neighborhood businesses such as drugstores and grocery stores frequently permit their customers to postpone payment on an informal basis not associated with a formal credit plan.

To qualify for this exemption, the following conditions must be met. (1) The credit is not represented by and does not arise from use of a credit card. (2) No finance charge, late payment or other fee is or may be imposed. (3) There is no

agreement by which the credit may be payable in more than four instalments. These conditions are drawn from Part 226 of this title (Regulation Z, Truth in Lending; see 12 C.F.R. 226.2(k)); The presence of one or more of these factors connotes a more formalized credit plan than typically utilized by small neighborhood creditors and professionals.

SECTION 202.10(c)—BUSINESS CREDIT

The April proposal did not provide any exemption for business credit. Numerous commentators noted that the Act was primarily designed to protect consumers and they suggested that the Board exempt credit other than consumer credit from certain procedural requirements. The Board weighed the cost to the affected creditors against the potential loss of protection for consumers and determined that a limited exemption was appropriate.

The September proposal (former section 202.10(a)) exempted business credit from the sections of the regulation relating to application forms, evaluation of applicants, reporting of credit information, signatures and retention of records. The comments received in response to the September proposal indicated considerable public support for the Board's general approach. However, consumers suggested that the Board re-examine the sections from which business lenders were exempted to ensure that the public was afforded the full protection of the Act.

Accordingly, the Board has determined that, in addition to the provisions mentioned in 202.10(a), lenders of business credit should also be subject to section 202.4(e), relating to designation of names, sections 202.5(a) through (l) and section 202.7, relating to signatures. The September proposal subjected lenders of business credit to former section 202.5(k) which prohibited a lender from failing to act or unreasonably delaying a decision of an application on the basis of sex or marital status. Because of revisions made in section 202.5 of the final regulation, the prohibition of delay in business credit has been relocated to this section. Business credit also is subject to a limited recordkeeping requirement. If the credit requested is $100,000 or less and the applicant so requests in writing, the creditor is required to retain its records in accordance with section 202.9.

For purposes of this section, business credit is defined as credit granted for business, commercial or agricultural purposes.

SECTION 202.10(d)—SECURITIES CREDIT

Former section 202.10(a) provided that securities credit would be subject to the general rule, the definitions, the prohibitions against discouraging applications and delaying application, as well as the provisions relating to enforcement and transitions. However, an exception would be provided from procedural requirements regarding the form of applications and the reporting of credit histories. The reason for the exception was that comments on the April proposal had pointed out that brokers and dealers are required to make certain inquiries into the financial affairs of spouses of their customers in order to comply with rules promulgated under the Securities Exchange Act of 1934 and by the self-regulatory bodies. These rules require a broker or dealer, for example, to "know your customer" in order to advise appropriately on selection of an investment; to be aware of "insider" holdings of securities by family units, and to determine potential conflicts of interest that might result from the employment of a spouse by another brokerage firm. Comments on the September proposal pointed out that the exceptions provided were broader than needed for the purpose of permitting a lender of securities credit to comply with other laws and regulations. Accordingly, the rule has been narrowed to permit a broker or dealer to make mandatory inquiries to determine the existence of controlling interests, beneficial ownership or purchase limitations and restrictions regarding accounts of applicants and their spouses or whether conflict of interest exist with respect of an applicant's account but leave other sections of this part applicable. In the event of any overlap between the sections, credit subject to 202.10(d) is not subject to sections 202.10(b), 202.10(c), or 202.10(e).

SECTION 202.10(e)—UTILITIES CREDIT

Several public comments urged the Board to adopt an exemption from certain provisions of the regulation for credit extended by utilities companies. The provisions of the September proposal, especially those relating to application forms and the reporting of credit information would have required substantial changes in the forms and procedures of public utilities companies. Costs associated with such changes would, in all likelihood, be passed along to consumers.

The Board has determined that an exemption from procedural requirements is appropriate. Also the record-keeping and reporting provisions of the regulation are designed to ensure that both spouses will obtain a credit history with respect to credit accounts used by both. The Board is of the opinion that creditors give little weight to affirmative records of payment on utility bills since most customers pay their utility bills if at all posible in order to avoid termination of service. Thus the Board does not believe that customers would gain significantly from having utilities maintain and report credit histories.

The general rule and the other provisions specified in section 202.10(a) are applicable to utilities credit, and in addition, such credit is subject to the provisions relating to evaluation of applications and requests for signatures or spouses or other persons.

SECTION 202.11(a)—MECHANICAL ERRORS

Section 202.10(b) of the September proposals would have excused a creditor for a violation of section 202.4 regarding application forms if the creditor could show "by a preponderance of the evidence that at the time of the alleged violation the creditor maintained reasonable procedures to assure compliance with that section." Numerous public comments reflected an impression that former section 202.10(b) created a loophole through which creditors could escape liability for violations. Some creditors commented that inadvertent violations of other sections of the regulation resulting from either mechanical or bookkeeping errors also should be excused.

The revision of section 202.4 reducing the specific requirements for the format of application forms has obviated the need for former section 202.10(b). A new section 202.11(a) clarifies the Board's determination that a limited exception should be provided for failure to comply with section 202.5(j), having to do with obtaining and considering credit histories of an applicant or applicant's spouse, sections 202.4(d) or 202.5(m) having to do with a required notice, or section 202.6 relating to the reporting of credit history if two conditions are met. The conditions are: (1) the failure to comply results from a mechanical, electronic or clerical error and (2) the creditor can show that it had established and was maintaining suitable procedures to assure compliance.

SECTION 202.11(b)—INCONSISTENT STATE LAWS

Numerous commentators, including several associated with State governmental bodies, expressed concern that various provisions of the September proposal might be interpreted as pre-empting State laws that are more protective of consumers. In order to clarify that this is not the case (except where the Act specifically requires such pre-emption) a new section 202.11(b) has been added. It states that, except as provided in Section 202.8, no laws of any State are preempted unless they are inconsistent with this Part, and then only to the extent of the inconsistency. The new section also provides that a State law is not inconsistent if the creditor can comply with that law without violating this Part. This provision is adapted from a similar provision in Part 226 of this Title (Regulation Z, 12 C.F.R. 226.6(b)(2)).

SECTION 202.12—ADMINISTRATIVE ENFORCEMENT

Former section 202.11 has been renumbered section 202.12.

SECTION 202.13—PENALTIES AND LIABILITIES

Former section 202.12 has been renumbered 202.13. The last sentence of former Section 202.12(c) has been deleted in view of public comments indicating that it caused confusion about the date on which the statute of limitations would begin to run.

SECTION 202.14—TRANSITION PERIODS

The September proposal provided that the provisions of the regulation would take effect in four stages: on October 28, 1975, the effective date of the Act; on January 31, 1976 and on November 1, 1976. The Board proposed adopting transition periods after consideration of numerous public comments indicating that compliance with certain sections of

the regulation would require training of personnel, reprogramming of computers and extensive changes in application forms and procedures. Comments received from creditors in response to the September proposal urged the Board to lengthen the transition periods while comments from consumers urged the Board to shorten or eliminate the transition provisions.

After further consideration, the Board has concluded that certain transition provisions are necessary and appropriate and has made certain changes in their duration, shortening some and lengthening others. The following transition periods have not been changed from the September proposal: sections 202.1, 202.2, 202.3, 202.5(1), 202.7(c), 202.8, 202.10, 202.11, 202.12, 202.13 and 202.14, will go into effect on October 28, 1975; section 202.5(i) will become effective on January 31, 1976; sections 202.4(c) and (d) will become effective on June 30, 1976.

The Board has concluded that some provisions of the Part do not require substantial changes in creditors procedures and should go into effect sooner than they would have under the September proposal in order to provide consumers with the protection afforded by the regulation as soon as possible. The provisions relating to alimony obligations (section 202.5(c)), childbearing (section 202.5(h)), use and retention of prohibited information (section 202.5(k)) and preservation of records after notice of investigation or suit (section 202.9(c)) will go into effect on October 28, 1975 instead of January 31, 1976. The sections relating to the consideration of credit history (section 202.5(j)) and the furnishing of credit information (section 202.6) will go into effect on October 28, 1975, instead of November 1, 1976. By its terms section 202.6 does not require creditors to implement changes in credit reporting procedures until November 1, 1976. Section 202.5(j)(i) relates to consideration of accounts designated in accordance with section 202.6 and similarly does not require changes in creditors' procedures until after November 1, 1976. However section 202.5(j)(2) will require a creditor to consider, as of October 28, 1975, the credit history of any account reported in the name of the applicant's spouse or former spouse, which the applicant can demonstrate reflects accurately his/her willingness or ability to repay. The sections relating to alimony income (section 202.5(d)), discounting income (section 202.5(e)), credit scoring (section 2025(f)), telephone listing in the applicant's name (section 202.5(g)) and preservation of records (section 202.9(a)) will go into effect on November 30, 1975 instead of January 31, 1976. The sections relating to discouraging applications (202.4(a)) and designation of name (sections 202.4(e)) will go into effect on November 30, 1975 instead of June 30, 1976.

The transition periods have been extended in two cases. Under the September proposal, section 202.5(b) relating to information about a spouse would have become effective on January 31, 1976. Because this section is closely related to sections 202.4 (c) and (d) having to do with the format of application forms, which do not become effective until June 30, 1976, the Board has determined that the effective date of section 202.5(b) should also be June 30, 1976.

The September proposal provided that section 202.7 relating to signatures would become effective on October 28, 1975. Public comments stated that creditors would need a few months to adapt their application procedures and re-train their employees as to the situations in which a creditor may request or require the signature of a spouse or other person. Therefore, the Board has decided to make section 202.7 (a) and (b) effective on January 31, 1976. Pursuant to the authority of section 703 of the Equal Credit Opportunity Act (Pub. L. 93-495), 15 U.S.C. 1691, *et seq.*, 12 C.F.R. Part 202 (Regulation B) is hereby adopted, reading as follows:

Sec.

202.1 Authority and scope.
202.2 General rule.
202.3 Definitions.
202.4 Applications.
202.5 Evaluation of applications.
202.6 Furnishing of credit information.
202.7 Request for signature of spouse or other person.
202.8 Separate accounts in relation to state law.
202.9 Preservation of records.
202.10 Certain specialized credit.
202.11 Miscellaneous provisions.
202.12 Administrative enforcement.
202.13 Penalties and liabilities.
202.14 Transition periods.

AUTHORITY: Sec. 703 of the Equal Opportunity Act (Pub. L. 93-495, 15 U.S.C. 1691 et seq.)

§ 202.1 Authority and scope.

This Part comprises the regulations issued by the Board of Governors of the Federal Reserve System pursuant to the Equal Credit Opportunity Act (Pub. L. 93-495; 88 Stat. 1521 *et seq.*). This Part applies to all persons who regularly extend, offer to extend, arrange for or offer to arrange for the extension of credit for any purpose whatsoever and in any amount.

§ 202.2 General rule.

A creditor shall not discriminate against any applicant on the basis of sex or marital status with respect to any aspect of a credit transaction.

§ 202.3 Definitions and rules of construction.[1]

For purposes of this Part, unless the context indicates otherwise, the following definitions apply:

(a) "Act" means the Equal Credit Opportunity Act (Pub. L. 93-495; 88 Stat. 1521 *et seq.*).

(b) "Account" means an extension of credit; "use of an account" throughout this Part refers only to open end credit.

(c) "Applicant" means any person who applies to a creditor directly for an extension, renewal or continuation of credit, or who applies to a creditor indirectly by use of an existing credit plan for an amount exceeding a previously established credit limit. With respect to any creditor the term also includes any person to whom credit is or has been extended by that creditor.

(d) "Application" means an oral or written request by an applicant for an extension of credit which is made in accordance with procedures established by a creditor for the type of credit requested. The term does not include the use of an existing credit plan to obtain an amount of credit which does not exceed a previously established credit limit.

(e) "Arrange for the extension of credit" means to provide or offer to provide credit which is or will be extended by another person under a business or other relationship pursuant to which the person arranging such credit participates in the decision to extend credit to an applicant. The term does not include participation in a credit transaction which is limited to honoring a credit card.

(f) "Consumer credit" means credit offered or extended to a natural person in which the money, property or service which is the subject of the transaction is primarily for personal, family or household purposes.

(g) "Contractually liable" means expressly obligated to repay all debts arising on an account by reason of having signed an agreement to that effect.

(h) "Credit" means the right granted by a creditor to an applicant to defer payment of a debt, or to incur debt and defer its payment or to purchase property or services and defer payment therefor.

(i) "Credit card" means any card, plate, coupon book or other single credit device existing for the purpose of being used from time to time upon presentation to obtain money, property or services on credit.

(j) "Creditor" means any person who regularly extends, renews or continues credit; or arranges for the extension, renewal or continuation of credit. The term includes assignees, transferees or subrogees of an original creditor if they participate in the decision to extend credit, but does not include a person whose only participation in a credit transaction is to honor a credit card.

(k) "Credit transaction" means every aspect of an applicant's dealings with a creditor including, but not limited to, solicitation of prospective applicants by advertising or other means; information requirements; investigatory procedures; standards of creditworthiness; terms of credit; furnishing of credit information and collection procedures.

(l) "Discriminate against an applicant on the basis of sex or marital status" means to treat an applicant less favorably than other applicants on the basis of sex or marital status.

(m) "Extension of credit" means the granting of credit in any form and includes, but is not limited to, credit grant-

[1] Note that for some purposes some of the definitions are not identical with those found in 12 CFR 226 (Regulation Z).

ed in addition to any existing credit or credit limit; credit granted in the form of a credit card, whether or not the card has been used; the refinancing of any credit; the consolidation of two or more obligations; the issuance of a new credit card in place of an expiring credit card or in substitution for an existing credit card; the continuing in force of a previously issued credit card; or the continuance of existing credit without any special effort to collect at or after maturity.

(n) "Marital status" means the state of being unmarried, married or separated, as defined by applicable State law. For purposes of this Part, the term "unmarried" includes a person who is divorced or widowed.

(o) "Open end credit" means credit extended pursuant to a plan under which the creditor may permit the applicant to make purchases or obtain loans, from time to time, directly from the creditor or indirectly by use of a credit card, check or other device, as the plan may provide. The term does not include negotiated advances under an open end real estate mortgage or a letter of credit.

(p) "Person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative or association.

(q) "State" means any State, the District of Columbia, the Commonwealth of Puerto Rico or any territory or possession of the United States.

§ 202.4 Applications.

(a) *Discouraging applications.* A creditor shall not make any statements to applicants or prospective applicants which would, on the basis of sex or marital status, discourage a reasonable person from applying for credit or pursuing an application for credit.

(b) *Separate accounts.* A creditor shall not refuse, on the basis of sex or marital status, to grant a separate account to a creditworthy applicant.

(c) *Inquiries as to marital status.* (1) A creditor shall not ask the applicant's marital status if the applicant applies for an unsecured separate account, except in a community property State or as required to comply with State law governing permissible finance charges or loan ceilings.

(2) If the creditor asks the applicant's marital status, only the terms "married," "unmarried" or "separated" shall be used.

(3) Notwithstanding any other provision of this subsection, a creditor may inquire as to the liability to pay alimony, child support or maintenance. Further, if a creditor first discloses to an applicant that income from alimony, child support or maintenance payments need not be revealed if the applicant does not choose to disclose such income in applying for credit, a creditor may inquire whether any income stated in an application is derived from such a source.

(4) Where an applicant is requested to designate a title (such as Mr., Mrs., Ms. or Miss), the creditor shall state conspicuously that the designation of such title is optional. An application form shall otherwise use only terms that are neutral as to sex unless other terms are required by an enforcement agency to monitor compliance with this Part.

(d) *Equal Credit Opportunity Act notice.* (1) Except where application is made by telephone, or orally for an amount of credit to exceed an existing limit on an applicant's open end account, the creditor shall provide each applicant with the following notice in writing:

> The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of sex or marital status. The Federal agency which administers compliance with this law concerning this (insert appropriate description—bank, store, etc.) is (name and address of the appropriate agency).

(2) Such notice shall be provided in a form that the applicant may retain, either:

(i) On a copy of the application form; or

(ii) On a separate sheet of paper delivered to the applicant at the time application is made, or delivered or mailed to the applicant as soon as practicable thereafter.

(e) *Designation of name.* A creditor shall not prohibit an applicant from opening or maintaining an account in a birth-given first name and surname or a birth-given first name and a combined surname.

§ 202.5 Evaluation of applications.

(a) *Continued ability to repay.* Except as otherwise provided in this section, a creditor may request and consider any information concerning the probable continuity of an applicant's ability to repay if such information is requested and considered without regard to sex or marital status.

(b) *Information about a spouse or former spouse.*

(1) A creditor may request and consider any information concerning an applicant's spouse (or former spouse under (iv) below) which may be considered about the applicant if:

(i) The spouse will be permitted to use the account; or

(ii) The spouse will be contractually liable upon the account; or

(iii) The applicant is relying on community property or the spouse's income as a basis for repayment of the credit requested; or

(iv) The applicant is relying on alimony, child support or maintenance payments from a spouse or former spouse as a basis for repayment of the credit requested.

(2) A creditor may request the name in which an account is carried if the applicant discloses the account in applying for credit.

(3) Except as permitted in this subsection, a creditor may not request any information concerning the spouse or former spouse of an applicant.

(c) *Alimony, child support and maintenance obligations.* A creditor may ask and consider whether and to what extent an applicant is obligated to make alimony, child support or maintenance payments.

(d) *Alimony, child support and maintenance income.*

(1) If a creditor first discloses to an applicant that income from alimony, child support or maintenance payments need not be revealed if the applicant does not choose to disclose such income in applying for credit, a creditor may inquire whether any income stated in an application is derived from such a source.

(2) Where an applicant chooses to disclose alimony, child support or maintenance payments under § 202.4(c)(3), a creditor shall consider such payments as income to the extent that such payments are likely to be consistently made. Factors which a creditor may consider in determining the likelihood of consistent payments include, but are not limited to, whether the payments are received pursuant to a written agreement or court decree; the length of time the payments have been received; the regularity of receipt; the availability of procedures to compel payment; and the creditworthiness of the payor, including the credit history of the payor where available to the creditor under the Fair Credit Reporting Act or other applicable laws.

(e) *Discounting income.* A creditor shall not discount the income of an applicant or an applicant's spouse on the basis of sex or marital status. A creditor shall not discount income solely because it is derived from part-time employment, but may consider the probable continuity of such income in evaluating the creditworthiness of an applicant.

(f) *Credit scoring.* A creditor shall not take sex or marital status into account in a credit scoring system or other method of evaluating applications.

(g) *Telephone listing in applicant's name.* A creditor shall not take into account the existence of a telephone listing in the name of an applicant in a credit scoring system or other method of evaluating applications. A creditor may take into account the existence of a telephone in the applicant's home.

(h) *Childbearing.* A creditor shall not request information about birth control practices or childbearing intentions or capability. Nor shall a creditor consider in evaluating the creditworthiness of an applicant aggregate statistics or assumptions relating to the likelihood of any group of persons bearing or rearing children, or for that reason receiving diminished or interrupted income in the future.

(i) *Change of name or marital status.* (1) Except as set forth in subsection (2) below, in the absence of evidence of inability or unwillingness to repay, a creditor shall not take any of the following actions with respect to a person who is contractually liable on an existing open end account on the basis of a change of name or marital status:

(i) Require a reapplication; or

(ii) Require a change in the terms of the account; or

(iii) Terminate the account.

(2) Where open end credit has been granted to an applicant based on income which is earned solely by the applicant's spouse, a creditor may require a reapplication on the basis of a change in marital status.

(j) *Credit history.* To the extent that a creditor considers credit history in evaluating applicants of similar qualifications for a similar type and amount of credit, a creditor shall include, in evaluating creditworthiness:

(1) The credit history of accounts designated under the requirements of § 202.6 as accounts which the applicant and a spouse are permitted to use or for which both are contractually liable, and, on the applicant's request, any information the applicant may present tending to indicate that such history does not accurately reflect the applicant's willingness or ability to repay; and

(2) On the applicant's request, the credit history, when available, of any account reported in the name of the applicant's spouse or former spouse which an applicant can demonstrate reflects accurately the applicant's willingness or ability to repay.

(k) *Use and retention of prohibited information.* A creditor may not use any information prohibited by the Act or this Part in evaluating applications. Retention of such information in the creditor's files does not violate the Act or this Part where such information was obtained:

(i) From any source prior to June 30, 1976; or

(ii) At any time from credit reporting agencies; or

(iii) At any time from the applicant or others, without the specific request of the creditor.

(l) *State property laws.* Consideration or application of State property laws directly or indirectly affecting creditworthiness shall not constitute discrimination for purposes of this Part.

(m) *Notification of action taken and reasons for denial.*

(1) A creditor shall, within a reasonable time after receiving an application, notify the applicant of action taken upon the application.

(2) A creditor shall provide each applicant who is denied credit or whose account is terminated the reasons for such action, if the applicant so requests.

(3) A creditor may design its own form or methods to satisfy this requirement. An example of a possible form is set forth below.

STATEMENT OF REASONS FOR DENIAL OR TERMINATION OF CREDIT

1. _____Credit application:
   _____not completed.
   _____lack of credit references.
   _____credit reference too new to check.
2. _____Information furnished by:
   XYZ Credit Bureau.
   10 Main Street.
   Anytown, Anystate 00000.
   Phone no. 000-000-0000.
3. _____Employment:
   _____unemployed.
   _____temporary or irregular.
   _____unable to verify.
   _____length of employment.
4. _____Income:
   _____insufficient.
   _____unable to confirm.
   _____information refused.
5. _____Residence:
   _____too short a period.
   _____temporary.
6. _____Other (specify)
   _____
   _____

§ 202.6 **Furnishing of credit information.**

(a) *Accounts established on or after November 1, 1976.* (1) For every account established on or after November 1, 1976, a creditor shall:

(i) Determine whether the account is one which an applicant's spouse, if any, will be permitted to use or upon which both spouses will be contractually liable, if such accounts are offered by the creditor; and

(ii) Designate any such account to reflect the fact of participation of both spouses.

(2) When furnishing information to consumer reporting agencies or others concerning an account designated under this section, a creditor shall report the designation and furnish any information concerning the account:

(i) To consumer reporting agencies, in a manner which will enable the agencies to provide access to information about the account in the name of each spouse; and

(ii) To recipients other than such agencies, in the name of each spouse.

(b) *Accounts established prior to November 1, 1976.* (1) With respect to any account established prior to and in existence on November 1, 1976, a creditor shall either:

(i) Not later than November 1, 1976, determine whether the account is one which an applicant's spouse, if any, is permitted to use or upon which both spouses are contractually liable; designate any such account to reflect the fact of participation of both spouses; and comply with the requirements of paragraph (a)(2) above; or

(ii) mail or deliver to all applicants, or all married applicants, in whose name the account is carried on the creditor's records the notice set forth below. Such notice may be mailed with a statement or other mailing. All such notices shall be mailed by February 1, 1977. With respect to open end accounts, this requirement may be satisfied by mailing a notice to all accounts for which any statement is sent between November 1, 1976 and February 1, 1977. A creditor may supplement the notice as necessary to permit identification of the account.

NOTICE

CREDIT HISTORY FOR MARRIED PERSONS

The Federal Equal Credit Opportunity Act forbids all creditors from discriminating against any applicant on the basis of sex or marital status in any aspect of a credit transaction. Regulations adopted under the Act give married persons the right to have credit information concerning those credit accounts that they hold or use jointly with a spouse reported to consumer reporting agencies and creditors in the names of both the wife and husband. Accounts of married persons opened before November 1976—even those opened in the names of both spouses—are often reported in only the husband's name. This is generally true regardless of who has been paying the bills or whose income was used to obtain the account. As a result, many married women do not have a credit history in their own names, although their husbands do. If a woman ever needs to obtain credit on her own, for example, when divorced or widowed, a credit history is usually necessary.

If your account(s) with us is a joint account which you share with your spouse or an account(s) in the name of one spouse which the other spouse is authorized to use, you have the right to have credit information concerning it reported in both your name and your spouse's name. If you choose to have credit information concerning your account(s) with us reported in both your name and the name of your spouse, please fill in the statement below and return it to us.

Please note that the Federal regulation provides that your signature below will not make either you or your spouse legally liable for any different or greater debts. It will only request that credit information be reported in both your names.

When you furnish credit information on this account, please report all information concerning it in both our names as follows:

_____ (print or type)

_____ _____ (print or type)
Account Number (if any)

_____ Signature of either spouse

(2) After November 1, 1976, a creditor shall, within 90 days of receipt of a request to change the manner in which information is reported to consumer reporting agencies and others, when furnishing information concerning any such account, designate the account to reflect the fact of participation of both spouses. The creditor shall report the designation and furnish any information concerning the account to any recipient other than a consumer reporting agency in the name of each spouse and, when reporting to consumer reporting agencies, in a manner which will enable such agencies to provide access to information about the account in the name of each spouse.

(3) A spouse's signature on a request to change the manner in which information concerning an account is furnished shall not change the legal liability of either spouse upon the account.

§ 202.7 **Request for signature of spouse or other person.**

(a) *General.* Except as provided in subsections (b) and (c) below, a creditor may not require the signature of a spouse or other person on a credit instrument unless such a requirement is imposed without regard to sex or marital status on all similarly qualified applicants who apply for a similar type and amount of credit.

(b) *Unsecured credit in community property States.* Where a married applicant applies for unsecured credit in a community property State, a creditor may request or require the signature of a non-applicant spouse if:

(i) The applicable State law denies the applicant power to manage or control sufficient community property to qualify for the amount of credit requested under the creditor's standards of creditworthiness; and

(ii) The applicant does not have sufficient separate property to qualify for the amount of credit requested without regard to any community property.

(c) *Signatures on certain instruments.* Where a married or separated applicant applies for secured credit, the creditor may require the signature of the applicant's spouse on such instruments as are necessary, under the applicable statutory or decisional law of the State, or are reasonably believed by the creditor to be so necessary, to create a valid lien, pass clear title, waive inchoate rights to property or assign earnings.

§ 202.8 Separate accounts in relation to state law.

(a) *Separate extension of consumer credit.* Any provision of State law which prohibits the separate extension of consumer credit to each spouse shall not apply in any case where each spouse voluntarily applies for separate credit from the same creditor. In any case where such a State law is pre-empted, each spouse shall be solely responsible for the debt so contracted.

(b) *Finance charges and loan ceilings.* When each spouse separately and voluntarily applies for and obtains a separate account with the same creditor, the accounts shall not be aggregated or otherwise combined for purposes of determining permissible finance charges or permissible loan ceilings under the laws of any State or of the United States. Permissible loan ceilings under the laws of any State or of the United States shall be construed to permit each spouse to be separately and individually liable up to the amount of the loan ceiling less the amount for which both spouses are jointly liable. For example, in a State which a permissible loan ceiling of $1000, if a married couple were jointly liable for $250, each spouse could subsequently become individually liable for $750.

§ 202.9 Preservation of records.

(a) For a period ending 15 months after the date a creditor gives the applicant notice of action on an application, the creditor shall retain as to each applicant, in original form or a copy thereof:

(1) Any application form and all other written or recorded information used in evaluating an application; and

(2) Any written statement submitted by the applicant alleging discrimination prohibited by the Act or this Part.

(b) For a period ending 15 months after the date a creditor adversely changes the terms or conditions of credit for an account, the creditor shall retain as to each account, in original form or a copy thereof:

(1) Any written or recorded information concerning such change in the terms and conditions; and

(2) Any written statement submitted by the applicant alleging discrimination prohibited by the Act or this Part.

(c) Any creditor which has actual notice that it is under investigation for violation of this Part by an enforcement agency charged with monitoring that creditor's compliance with the Act and this Part, or which has been served with notice of an action filed pursuant to § 202.13 of this Part, shall retain the information required in subsections (a) and (b) above until final disposition of the matter or such earlier time as may be ordered by the agency or court.

§ 202.10 Certain specialized credit.

(a) *General.* Each type of credit referred to in paragraphs (b), (c), (d), and (e) below shall be subject only to § 202.1, the General Rule stated in § 202.2, to §§ 202.3, 202.4(a), 202.4(b), 202.4(e), 202.11, 202.12, 202.13 and 202.14, and to the other provisions, if any, specified in the applicable subsections of this section. If a credit falls within more than one subsection of this section, all sections of this Part referred to in any such subsections shall apply unless the credit falls within paragraph (d), in which case only the provisions specified in that subsection and this subsection (a) shall apply.

(b) *Incidental credit.* Incidental credit shall be subject to the provisions specified in §§ 202.10(a) and 202.5(h). As used in this Part, incidental credit is credit which meets all of the following requirements:

(1) The credit is not represented by and does not arise from the use of a credit card; and

(2) No finance charge as defined in § 226.4 of this Title (12 CFR 226.4 of Regulation Z), late payment or other fee is or may be imposed other than statutory interest or other costs recoverable in legal proceedings for the collection of the credit; and

(3) There is no agreement by which the credit may be payable in more than four installments.

(c) *Business credit.* Business credit shall be subject to the provisions specified in §§ 202.10(a), 202.5 and 202.7. Section 202.9 shall only apply in those transactions involving an application for credit in the amount of $100,000 or less where the applicant requests in writing that the creditor retain such records. A creditor shall not, on the basis of sex or marital status, fail to act on, or unreasonably delay a decision on, an application for business credit. As used in this Part, business credit is credit granted for business, commercial or agricultural purposes.

(d) *Securities credit.* Securities credit shall be subject to the provisions specified in §§ 202.10(a), 202.5(a), 202.5(c) through 202.5(h), 202.5(j), 202.5(l), 202.5(m), 202.6(a) and 202.9. Section 202.4(e) shall not apply to a securities dealer insofar as the action described is taken to prevent violation of rules regarding an account in which a broker or dealer has an interest, or rules necessitating the aggregating of accounts of spouses for the purpose of determining controlling interests, beneficial ownership or purchase limitations and restrictions. As used in this Part, securities credit is credit subject to regulation under section 7 of the Securities Exchange Act of 1934 or credit extended by a broker or dealer who is subject to regulation as a broker or dealer under the Securities Exchange Act of 1934.

(e) *Public utilities credit.* Public utilities credit shall be subject to the provisions specified in § 202.10(a) and §§ 202.5 and 202.7. As used in this Part, public utilities credit is credit extended pursuant to transactions under public utility tariffs involving services provided through pipe, wire or other connected facilities, if the charges for such public utility services, the charges for delayed payment and any discount allowed for early payment are filed with, reviewed by or regulated by an agency of the Federal Government, a State or a political subdivision thereof.

§ 202.11 Miscellaneous provisions.

(a) *Mechanical errors.* If a failure to comply with §§ 202.4(d), 202.5(j), 202.5(m) or 202.6 results from a mechanical, electronic or clerical error made in good faith, it shall not be a violation of the section if the creditor shows by a preponderence of the evidence that at the time of the noncompliance the creditor had established and was maintaining suitable procedures to assure compliance with the section.

(b) *Inconsistent State laws.* Except as provided in § 202.8, this Part alters, affects or preempts only those State laws which are inconsistent with this Part, and then only to the extent of the inconsistency. Such a State law is not inconsistent with this Part if the creditor can comply with the State law without violating this Part.

§ 202.12 Administrative enforcement.

(a) As set forth more fully in Section 704 of the Act, administrative enforcement of the Act and this Part with respect to certain creditors is assigned to the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Board of Directors of the Federal Deposit Insurance Corporation, Federal Home Loan Bank Board acting directly or through the Federal Savings and Loan Insurance Corporation, Administrator of the National Credit Union Administration, Interstate Commerce Commission, Civil Aeronautics Board, Secretary of Agriculture, Farm Credit Administration, Securities and Exchange Commission and the Small Business Administration.

(b) Except to the extent that administrative enforcement is specifically committed to other authorities, Section 704 of the Act assigns enforcement of the Act and this Part to the Federal Trade Commission.

§ 202.13 Penalties and liabilities.

(a) Sections 706 (a) through (e) of the Act provide for civil liability for actual and punitive damages against any creditor who fails to comply with the Act and this Part. Section 706(b) places a $10,000 limitation on the amount of punitive damages an aggrieved applicant may seek in an individual capacity and section 706(c) limits a creditor's class action liability for punitive damages to the lesser of $100,000 or 1 percent of the creditor's net worth at the time the action is

brought. Section 706(d) provides that an aggrieved applicant may seek equitable relief in the nature of a permanent or temporary injunction, restraining order or other action. Section 706(e) further provides for the awarding of costs and reasonable attorney's fees to an aggrieved applicant who brings a successful action under section 706 (a) through (d).

(b) Section 706(f) relieves a creditor from civil liability resulting from any act done or omitted in good faith in conformity with any rule, regulation or interpretation by the Board of Governors of the Federal Reserve System notwithstanding that after such act or omission has occurred, such rule, regulation or interpretation is amended, rescinded or otherwise determined to be invalid for any reason.

(c) Without regard to the amount in controversy, any action under this Title may be brought in any United States district court or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

§ 202.14 Transition periods.

Except as provided in § 202.6 with respect to that section, the provisions of this Part shall take effect as follows:

(a) Sections 202.1, 202.2, 202.3, 202.4 (a), 202.5 (a), (c), (h), (j), (k), (l), 202.7(c), 202.8, 202.9(c), 202.10, 202.11, 202.12, 202.13 and 202.14 shall take effect on October 28, 1975.

(b) Sections 202.4 (b) and (e), 202.5 (d), (e), (f) and (g) and 202.9 (a) and (b) shall take effect on November 30, 1975.

(c) Sections 202.5 (i) and (m) and 202.7 (a) and (b) shall take effect on January 31, 1976.

(d) Sections 202.4 (c) and (d) and 202.5(b) shall take effect on June 30, 1976.

Effective date: This Part becomes effective (except as provided therein) on October 28, 1975.

The requirements of section 553(d) of Title 5, United States Code, with respect to deferred effective date, have not been followed in connection with the adoption of this regulation because the Board finds: (1) that section 703 of the Equal Credit Opportunity Act (Pub. L. 93-495) 15 U.S.C. 1691(b) requires that this regulation be prescribed not later than the effective date of the Act, which is October 28, 1975; (2) that the provisions of the regulation that become effective on October 28, 1975, are those which are included in the Act itself. Those subject to the Act have had notice of its general requirements since it was enacted on October 28, 1974; (3) that those affected by the regulation have had adequate opportunity for comment, both in writing and orally at public hearings, and have sufficient notice of the probable content of the regulation by virtue of the extensive nature of the rulemaking proceedings; (4) that those provisions of the regulation requiring substantial change in the practices of those affected have been made effective after reasonable transition periods; and (5) that in consideration of the foregoing, it is in the public interest and consistent with the intent of Congress for the regulation to be effective on October 28, 1975.

By order of the Board of Governors, October 15, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-28395 Filed 10-21-75;8:45 am]

[Reg. D.]

PART 204—RESERVES OF MEMBER BANKS

Reserve Requirements

The Board of Governors has amended Regulation D (12 CFR 204) to modify the reserve balances that member banks are required to maintain against certain time deposits. The amendments approved by the Board reduce by two percentage points reserves required on all time deposits having an initial maturity of four years or more that are outstanding on or issued after October 16, 1975. Prior to these amendments such deposits were subject to a three percent reserve requirement. The Board's action is designed primarily to encourage member banks to lengthen the maturity structure of their liabilities. The action is also intended to help meet the seasonal need for bank reserves over the coming weeks and to facilitate moderate growth in the monetary aggregates. The effect of these amendments will be to lower the required reserves of member banks by approximately $350 million.

This action was taken pursuant to the Board's authority under 19 of the Federal Reserve Act (12 U.S.C. 461) to set reserve ratios for member banks. These amendments to Regulation D are effective on deposits outstanding in the week beginning October 16, 1975, and affect reserves held by member banks in the week beginning October 30, 1975.

Based on information regarding current economic and financial conditions the Board determined that it was in the public interest immediately to provide an incentive to member banks to lengthen further the maturity structure of their liabilities and to facilitate without delay continued growth in the monetary aggregates. In light of these factors, therefore, the Board determined that good cause exists for dispensing with notice and public participation with respect to these amendments and for promulgating these amendments without deferring the effective date thereof for the 30 day period referred to in 553(d) of Title 5 of the United States Code, and that it would be impracticable, unnecessary and contrary to the public interest to provide notice and public participation or to defer the effective date. See also § 262.2(e) of the Board's Rules of Procedure.

Effective October 16, 1975, § 204.5(a)(1)(ii) and § 204.5(a)(2)(ii) of Regulation D are amended to read as follows:

§ 204.5 Reserve requirements.

(a) * * *

(1) * * *

(ii) 1 percent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of 4 years or more; 3 percent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of 180 days or more but less than 4 years; 3 percent of its time deposits up to $5 million, outstanding on or issued after October 16, 1975, that have an initial maturity of less than 180 days, plus 6 percent of such deposits in excess of $5 million.

Provided, however, that in no event shall the reserves required on its aggregate amount of time and savings deposits be less than 3 percent.

* * * * *

(2) * * *

(ii) 1 percent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of 4 years or more; 3 percent of its time deposits outstanding on or issued after October 16, 1975, that have an initial maturity of 180 days or more but less than 4 years; 3 percent of its time deposits up to $5 million, outstanding on or issued after October 16, 1975, that have an initial maturity of less than 180 days, plus 6 percent of such deposits in excess of $5 million.

Provided, however, that in no event shall the reserves required on its aggregate amount of time and savings deposits be less than 3 percent.

* * * * *

By order of the Board of Governors, October 15, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-28396 Filed 10-21-75;8:45 am]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

PART 541—DEFINITIONS

PART 545—OPERATIONS

Amendments Relating to District of Columbia Associations

OCTOBER 15, 1975.

The following summary regarding the amendments adopted herein is included for the reader's convenience and is subject to the full description in the preamble as well as the specific provisions of the regulation.

I. *Present Situation*—District of Columbia associations are included within the term "Federal association" for limited purposes.

II. *Final Amendment*—(a) Includes District of Columbia associations within the term "Federal association", except as the Board may otherwise provide.

(b) Allows for continued Board supervision in the areas of branch offices, satellite offices, and change of office locations for any future District of Columbia associations and any non-District of Columbia chartered associations operating or seeking to operate in the District of Columbia.

II. *Reason for Amendments*—To provide a basis for Board supervision of District of Columbia associations upon deletion of the Regulations for District of Columbia Savings and Loan Associations and Branch Offices.

The Federal Home Loan Bank Board, by Resolution No. 75-651, dated July 30, 1975, proposed to amend Parts 541 and 545 of the Rules and Regulations for the Federal Savings and Loan System by revising § 541.2 and inserting new §§ 545.14(l), 545.14-5(j) and 545.16(l). Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on August 6, 1975 (40 FR 33054-55), with an invitation for interested persons to submit written comments by September 8, 1975.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt the proposed amendments as proposed, except that proposed § 545.14(l) is designated § 545.14(m). Accordingly, the Board hereby amends Parts 541, 545 by revising § 541.2, and by inserting new §§ 545.14(m) and 545.14-5(j), and 545.16(l), to read as set forth below, effective November 24, 1975.

Present § 541.2 defines the term "Federal association" to mean a "savings and loan association chartered by the Board as provided in section 5 of the Home Owners' Loan Act of 1933, as amended." As used in §§ 546.1, 546.2, 546.3, and 546.4 of Part 546, and in Parts 547, 548, 549 and 550, the term "Federal association" also includes any incorporated or unincorporated building, building and loan, savings and loan, or homestead association, which has been organized or incorporated under or pursuant to the laws of the District of Columbia.

Under the amendment, § 541.2 is revised to include within the term "Federal association", except as the Board may otherwise provide, any incorporated or unincorporated building, building and loan, savings and loan, or homestead association, which has been organized or incorporated under or pursuant to the laws of the District of Columbia. This restatement of the definition deletes references to the specific sections of the Federal Regulations listed above and enables § 541.2 to be of sufficient general applicability that all provisions of the Federal Regulations apply to associations in the District of Columbia.

New §§ 545.14(m), 545.14-5(j) and 545.16(l) allow for continued Board supervision in the areas of branch offices, satellite offices, and change of office locations for any future District of Columbia associations and any non-District of Columbia chartered associations operating or seeking to operate in the District of Columbia. These amendments to the Federal Regulations allow complete deletion of the Regulations for District of Columbia Savings and Loan Associations and Branch Offices.

This amendment is being adopted in conjunction with an amendment (Resolution No. 75-946; October 15, 1975) that deletes the Regulations for District of Columbia Savings and Loan Associations and Branch Offices. Those regulations are being deleted because there are no longer any associations incorporated or organized under the laws of the District of Columbia; all such associations have become Federal associations. This amendment provides a basis for Board supervision of any future District of Columbia association, either newly formed or a Federal association which converts back.

1. Part 541 is amended by revising § 541.2 to read as follows:

§ 541.2 Federal association.

The term "Federal association" means a Federal savings and loan association chartered by the Board as provided in section 5 of the Home Owners' Loan Act of 1933, as amended, and, except as the Board may otherwise provide, any incorporated or unincorporated building, building and loan, savings and loan, or homestead association, which has been organized or incorporated under or pursuant to the laws of the District of Columbia.

2. Part 545 is amended by adding a new § 545.14(m) to read as follows.

§ 545.14 Branch office.

* * * * *

(m) For purposes of this section, the term "Federal association" includes any incorporated or unincorporated building, building and loan, savings and loan, or homestead association or cooperative bank operating or seeking to operate in the District of Columbia with respect to any office operated or sought to be operated therein by such association.

3. Part 545 is amended by adding a new § 545.14(m) to read as follows:

§ 545.14-5 Satellite office.

* * * * *

(j) For purposes of this section, the term "Federal association" includes any incorporated or unincorporated building, building and loan, savings and loan, or homestead association or cooperative bank operating or seeking to operate in the District of Columbia with respect to any satellite office operated or sought to be operated therein by such association.

4. Part 545 is amended by adding a new § 545.16(l) to read as follows:

§ 545.16 Change of office location.

* * * * *

(l) For purposes of this section, the term "Federal association" includes any incorporated or unincorporated building, building and loan, savings and loan, or homestead association or cooperative bank operating or seeking to operate in the District of Columbia with respect to any office operated or sought to be operated therein by such association.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN,
Secretary.

[FR Doc.75-28436 Filed 10-21-75;8:45 am]

[No. 75-945]

PART 544—CHARTER AND BYLAWS

Amendment Relating to Voting by Members of Federal Savings and Loan Associations

OCTOBER 15, 1975.

The following summary of the amendment adopted by this Resolution is included for the reader's convenience and is subject to the full explanation in the preamble and to the specific provisions in the regulations.

I. *Situation Prior to this Amendment*—The charters of all Federal mutual savings and loan associations provided that no member shall cast more than 50 votes.

II. *Proposed Amendment*—Would have authorized Federal mutual associations to adopt an optional charter amendment stating that the maximum number of votes per member is one vote for each Federal Savings and Loan Insurance Corporation insured amount of $100 in the member's savings account (a maximum of 400 votes per member based on the present maximum FSLIC-insurance of $40,000 per member; 1,000 votes maximum per public unit account based on maximum FSLIC-insurance of $100,000 for public unit accounts) and, if applicable, one additional vote as a borrowing member.

III. *Final Amendment*—Federal mutual associations may adopt an optional charter amendment increasing from 50 votes to 400 votes the maximum number of votes that may be cast by the same member.

IV. *Reason For This Amendment*—This amendment liberalizes the regulations by adding an optional charter provision permitting each Federal mutual association to determine whether the maximum number of votes per member is to be changed for the particular association so as to reflect the amounts of the saving members' accounts within reasonable limits.

The Federal Home Loan Bank Board, by Resolution No. 75-468, dated May 28, 1975, proposed to amend § 544.8 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 544.8) by adding an optional charter provision relating to the maximum number of votes that may be cast by a member of a Federal mutual savings and loan association. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on June 3, 1975 (40 FR 23895-23896) with an invitation for interested persons to submit written comments by July 3, 1975.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends § 544.8 by revising the heading of paragraph (d) thereof and by adding a new paragraph (g) thereto to read as set forth below, effective November 21, 1975.

At the present time, all charters of Federal mutual associations provide in substance that, in the consideration of each question requiring action by the members of such a Federal association, a savings member is entitled to cast one vote for each $100, or fraction thereof, of

the withdrawal value of the member's account, and a borrowing member is entitled to cast, as a borrower, one vote, subject to the overall limit that no member (whether saver, borrower, or both) may cast more than 50 votes.

The proposed amendment would have liberalized the regulations by providing that Federal mutual associations may adopt an optional charter amendment stating in substance that the maximum number of votes per member is one vote for each Federal Savings and Loan Insurance Corporation insured amount of $100 in the member's savings account (a maximum of 400 votes per member based on the present maximum FSLIC-insurance of $40,000 per member; 1,000 votes maximum per public unit account based on maximum FSLIC-insurance of $100,000 for public unit accounts) and, if applicable, one additional vote as a borrowing member.

This final amendment liberalizes the existing regulations by providing that Federal mutual associations may adopt an optional charter amendment increasing from 50 to 400 votes the maximum number of votes a member may cast. Both the 50-vote provision (present charter) and the 400-vote provision (optional charter provision) limit the total number of votes that the same member (saver, borrower or both) is entitled to cast.

This amendment does not change the voting rights of members of a particular Federal association unless and until that association adopts the optional charter provision added by the new § 544.8(g).

In § 544.8 the heading to paragraph (d) is revised and a new paragraph (g) is added as follows:

§ 544.8 Amendment of charter.

* * * * *

(d) *Amendment of charter relating to the record date as to a member's eligibility to vote.*

* * * * *

(g) *Amendment of charter relating to a member's maximum number of votes.*

(1) The provisions of this paragraph (g)(1) shall constitute the approval by the Board of the proposal by the board of directors of any Federal association that has a Charter N or Charter K (rev.) of the amendment of section 4 of such association's charter by revising the fourth sentence thereof to read as follows: "No member, however, shall cast more than 400 votes."

(2) The association shall follow the requirements of section 11 of its charter in adopting such amendment.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN, *Secretary.*

[FR Doc.75-28434 Filed 10-21-75;8:45 am]

[No. 75-946]

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

Deletion of Obsolete Regulations

OCTOBER 15, 1975.

The Federal Home Loan Bank Board, by Resolution No. 75-650, dated July 31, 1975, proposed to delete the Regulations for District of Columbia Savings and Loan Associations and Branch Offices. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on August 6, 1975 (40 FR 33055), with an invitation for interested persons to submit written comments by September 8, 1975.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt the proposed amendments. Accordingly, the Board hereby deletes Parts 581, 582, 582a and 582b of said regulations, effective November 24, 1975.

There are no longer any associations incorporated or organized under the laws of the District of Columbia; all such associations have become Federal associations. As a result, the Regulations for District of Columbia Savings and Loan Associations and Branch Offices have become obsolete.

By a companion resolution (Resolution No. 75-947; dated October 15, 1975), the Board is revising § 541.2 and inserting new §§ 545.14(m), 545.14-5(j) and 545.16(i). Revised § 541.2 expands the definition of the term "Federal association" to include District of Columbia associations. This change is necessary to provide for Board supervision of any future District of Columbia association, either newly formed or a Federal association which converts back. New §§ 545.14(m), 545.14-5(j) and 545.16(i) allow for continued Board supervision in the areas of branch offices, satellite offices, and change of office locations for any future District of Columbia associations and any non-District of Columbia chartered associations operating or seeking to operate in the District of Columbia. These amendments to the Federal Regulations allow complete deletion of the Regulations for District of Columbia Savings and Loan Associations and Branch Offices.

Chapter V as amended by removing Parts 581, 582, 582a, 582b as follows:

PART 581—DEFINITIONS [REMOVED]

PART 582—OFFICES [REMOVED]

PART 582a—OPERATIONS OF DISTRICT OF COLUMBIA ASSOCIATIONS [REMOVED]

PART 582b—STATEMENTS OF POLICY [REMOVED]

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464; sec. 8, 48 Stat. 134, as added by sec. 913, 84 Stat. 1815; 12 U.S.C. 1466a. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN, *Secretary.*

[FR Doc.75-28435 Filed 10-21-75;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11734]

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Adoption of Special Instructions to Form U-4

Introduction. The Securities and Exchange Commission today announced the adoption of special instructions to Form U-4 (17 CFR 249.502) for registered broker-dealers who are not members of the National Association of Securities Dealers, Inc. ("nonmember" or "SECO" broker-dealers). Form U-4 was adopted by the Commission on May 16, 1975 (40 F.R. 30634) and became effective October 1, 1975.[1] As provided in Rule 15b8-1 (17 CFR 240.15b8-1) under the Securities Exchange Act of 1934, Form U-4 is to be filed by every SECO broker-dealer on behalf of each of its associated persons before such person may engage in any securities activities.

Comments. The purpose of adopting Form U-4 was to provide a uniform form which would be acceptable for filing by brokers and dealers with the national securities exchanges, the National Association of Securities Dealers, Inc. and state agencies for qualifying individual securities personnel of such firms with those jurisdictions. Once adopted by these agencies and jurisdictions, Form U-4 would reduce the reporting burden caused by the necessity of filing many non-uniform forms. The general instructions to the Form were drafted so that they conformed with the requirements of each jurisdiction. Therefore, it is necessary to provide special instructions for non-member broker-dealers so as to enable the Commission to carry out its unique responsibilities.

Since the special instructions impose no new substantive requirements and function primarily as guides to the persons subject thereto, the Commission for good cause finds that further notice and public procedure, as provided in Administrative Procedure Act (5 USC 553) are unnecessary.

Commission action. The Commission has adopted, effective October 1, 1975, a set of special instructions for non-member broker-dealers filing Form U-4 on behalf of such firms' associated persons pursuant to Sections 15(b), 17(a), and 23(a) of the Securities Exchange Act of 1934 as follows:

§ 249.502 [Amended]

SPECIAL INSTRUCTIONS FOR COMPLETING FORM U-4 UNIFORM APPLICATION FOR SECURITIES AND COMMODITIES INDUSTRY REPRESENTATIVE AND/OR AGENT

[Non-Member ("SECO") Broker-Dealers]

1. Rule 15b8-1 under the Securities Exchange Act of 1934 ("Act") provides that this form must be filed by every broker or dealer registered under section 15 of the Act,

[1] See Securities Exchange Act Release No. 11424 dated May 16, 1975 and No. 11530, dated July 10, 1975.

who is not a member of a registered National securities association (e.g., The National Association of Securities Dealers, Inc.). For every associated person engaged directly or indirectly in securities activities for or on behalf of such non-member broker or dealer, before such person engages in any activities on behalf of such broker or dealer.

2. A filing fee of $50 must accompany this form. A check should be made payable to the Securities and Exchange Commission and mailed along with one (1) copy of this form to the Office of the Comptroller.

3. Under sections 15(b), 17(a) and 23(a) of the act and the rules and regulations thereunder, the commission is authorized to solicit the information required to be supplied by this form from associated persons of non-member (SECO) broker-dealers. Although it is not required that Social Security numbers be disclosed, such voluntary disclosure will assist the commission in identifying applicants and in promptly processing the forms. Information supplied on this form shall be non-public but will be available to any person to whom the commission authorizes disclosure in the public interest. Routine uses of form U-4 are described on the reverse side of these special instructions.

4. A form which is not prepared and executed in compliance with applicable requirements may be returned as not acceptable for filing. Acceptance of this form, however, shall not constitute any finding that the information submitted is true, current, or complete. Intentional misstatements or omissions of fact constitute Federal criminal violations. (See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a)).

5. Applicants should note the provisions of sections 15(b) (7), (8) and (9) of the Securities Exchange Act of 1934 and the rules thereunder.

ROUTINE USES OF FORM U-4 SYSTEM

Form U-4 and the information contained in such Form may be used routinely for the following:

1. This system of records is routinely used in connection with the regulation by the Commission of non-member broker-dealers and persons associated with non-member broker-dealers pursuant to Section 15(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78o(b).

2. By SEC personnel for purposes of investigating possible violations of the Federal securities laws.

3. Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program 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, foreign or a securities self-regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

4. In any proceeding where the Federal securities laws are in issue or in which the Commission or past or present members of its staff is a party or otherwise involved in an official capacity.

5. A record from this system of records may be disclosed as a "routine use" to a Federal, State or local governmental authority maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency 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.

6. A record from this system of records may be disclosed to a Federal, State or local governmental authority, 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.

7. To aid in responding to inquiries from Members of Congress, the press or the public regarding matters under the Commission's jurisdiction.

8. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

Form U-4 is maintained under the authority of Title 15, United States Code, Section 78o(b) (17 CFR 240.15b8-1) and for the routine uses above-described as published in the FEDERAL REGISTER, Volume 40, No. 167, August 27, 1975, at p. 39288 thereof.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 15, 1975.

[FR Doc.75-28439 Filed 10-21-75;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FI-736]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

The purpose of this notice is to list those communities wherein the sale of flood insurance is authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128).

Insurance policies can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurers Association servicing company for the state (addresses are published at 39 FR 26186-93). A list of servicing companies is also available from the Federal Insurance Administration (FIA), HUD, 451 Seventh Street, SW., Washington, D.C. 20410.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in a flood plain area having special hazards within any community identified by the Secretary of Housing and Urban Development.

The requirement applies to all identified special flood hazard areas within the United States, and no such financial assistance can legally be provided for acquisition or construction in these areas unless the community has entered the program. Accordingly, for communities listed under this Part no such restriction exists, although insurance, if required, must be purchased.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence new entries to the table. In each entry, a complete chronology of effective dates appears for each listed community. The date that appears in the fourth column of the table is provided in order to designate the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. These dates serve notice only for the purposes of granting relief, and not for the application of sanctions, within the meaning of 5 U.S.C. 551. The entry reads as follows:

§ 1914.4 List of eligible communities.

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Indiana	Kosciusko	Winona Lake, town of	Oct. 14, 1975, Emergency	May 3, 1974		
Kansas	Ness	Bazine, city of	do	Nov. 22, 1974		
Massachusetts	Worcester	North Brookfield, town of	do	June 21, 1974		
New Hampshire	Merrimack	Northfield, town of	do	Mar. 22, 1974		
New Jersey	Mercer	Princeton, borough of	do			
New Mexico	Sandoval	Corrales, village of	do	Dec. 20, 1974		
North Dakota	Traill	Portland, city of	do	May 10, 1974		
Ohio	Fayette	Jeffersonville, village of	do	May 17, 1974		
Oklahoma	Muskogee	Oktaha, town of	do	Nov. 29, 1974		
Pennsylvania	Somerset	Benson, borough of	do	Oct. 18, 1974		
Do	Perry	Blain, borough of	do	do		
Do	Lehigh	Coplay, borough of	do	Nov. 22, 1974		
Do	Clinton	Greene, township of	do	Nov. 15, 1974		
Do	do	Logan, township of	do	Sept. 13, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
California	Imperial	Unincorporated areas	Oct. 14, 1975, Emergency	Nov. 1, 1974		
Iowa	Chickasaw	Fredericksburg, city of	do	May 3, 1974		
Do	Fayette	Oelwein, city of	do	July 26, 1974		
Michigan	Tuscola	Akron, township of	do	Oct. 18, 1974		
Missouri	Barton	Lamar, city of	do	Dec. 28, 1973		
Pennsylvania	Erie	Elgin, borough of	do	Jan. 24, 1975		
Do	Susquehanna	Hop Bottom, borough of	do	Nov. 1, 1974		
Do	Lycoming	Mill Creek, township of	do	Apr. 11, 1975		
Do	Susquehanna	Oakland, borough of	do	Jan. 31, 1975		
Do	Huntingdon	Springfield, township of	do	Dec. 13, 1974		
Do	Luzerne	Sugar Notch, borough of	do	Nov. 22, 1974		
Do	Fulton	Taylor, township of	do	Dec. 20, 1975		
Wisconsin	Marinette	Wausaukee, village of	do	May 24, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Massachusetts	Worcester	Princeton, town of	Oct. 15, 1975 Emergency	Aug. 30, 1974		
New Hampshire	Rockingham	Raymond, town of	do	Aug. 9, 1974		
New York	Otsego	Middlefield, town of	do	Nov. 8, 1974		
Do	Genesee	Oakfield, town of	do	Oct. 25, 1975		
Do	Ulster	Rosendale, village of	do	Nov. 15, 1974		
Pennsylvania	Centre	Boggs, township of	do	Sept. 13, 1974		
Do	Columbia	Centralia, borough of	do			
Do	Lackawanna	Clarks Green, borough of	do	July 18, 1975		
Do	Northumberland	East Chillisquaque, township of.	do			
Do	Washington	Fallowfield, township of	do	Nov. 8, 1974		
Do	Wyoming	Forkston, township of	do	Nov. 29, 1974		
Do	Adams	Hamiltonban, township of	do	Feb. 21, 1975		
Do	Schuylkill	Hubley, township of	do	Nov. 22, 1974		
Do	Erie	LeBoeuf, township of	do	Jan. 10, 1975		
Do	Jefferson	McCalmont, township of	do	Jan. 24, 1975		
Do	Luzerne	Nuangola, borough of	do	Dec. 20, 1974		
Do	Huntingdon	Orbisonia, borough of	Oct. 15, 1975, Emergency	Nov. 8, 1974		
Do	Chester	Penn, township of	do	do		
Do	Bradford	South Creek, township of	do	Sept. 13, 1974		
Do	Erie	Summit, township of	do	Apr. 11, 1975		
Do	Huntingdon	Tell, township of	do	Jan. 24, 1975		
Do	Susquehanna	Thompson, township of	do	Apr. 11, 1975		
Do	Northumberland	West Cameron, township of	do	Sept. 20, 1974		
Utah	Washington	Unincorporated areas	do			

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
Georgia	Oconee	Unincorporated areas	Oct. 16, 1975, Emergency			
Indiana	Clark	Charlestown, city of	do	Apr. 2, 1974		
Louisiana	Jefferson Davis Parish.	Unincorporated areas	do	Jan. 31, 1975		
New Jersey	Warren	Hope, township of	do	Aug. 9, 1974		
New Mexico	Grant	Hurley, town of	do	June 28, 1974		
New York	Tioga	Spencer, town of	do	Aug. 9, 1974		
Rhode Island	Washington	New Shoreham, town of	do	Jan. 3, 1975		
West Virginia	Tucker	Thomas, city of	do	Dec. 20, 1974		

State	County	Location	Effective date of authorization of sale of flood insurance for area	Hazard area identified	State map repository	Local map repository
*	*	*	*	*	*	*
Arkansas	Lafayette	Bucknor, city of	Oct. 17, 1975. Emergency	Oct. 25, 1974		
Connecticut	Tolland	Hebron, town of	do	Nov. 29, 1974		
Illinois	Douglas	Tuscola, city of	do	Nov. 30, 1973		
Maine	Hancock	Bucksport, town of	do	Oct. 18, 1974		
New York	Schoharie	Esperance, town of	do	do		
Do.	Lewis	West Turin, town of	do	Sept. 13, 1974		
Pennsylvania	Mercer	Greene, township of	do	Jan. 31, 1975		
Do.	Washington	North Bethlehem township of.	do	Jan. 10, 1975		
Vermont	Addison	Hancock, town of	do	Sept. 20, 1974		
Do.	Windsor	Pomfret, town of	do	Nov. 1, 1974		

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

Issued: October 14, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-28292 Filed 10-21-75;8:45 am]

[Docket No. FI-735]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

The purpose of this notice is the identification of communities with areas of special flood or mudslide or erosion hazards in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128). The identification of such areas is to provide guidance so that communities may adopt appropriate flood plain management measures to minimize damage caused by flood losses and to guide future construction, where practicable, away from locations which are threatened by flood hazards.

The Flood Disaster Protection Act of 1973 requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or Federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by a Federally regulated, insured, supervised or approved bank prior to January 1, 1976, to finance the acquisition of a previously occupied residential dwelling.

The effective date of identification shall be November 21, 1975, or the date which appears in this notice, whichever is later.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin November 21, 1975 or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under Section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin November 21, 1975 or the effective date of the Flood Hazard Boundary Map, whichever is later.

Where several dates appear in the column set forth below marked Effective Date of Identification, the first date is the date of initial identification, and all other dates represent modification by additions or deletions to identified areas with special hazards.

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

§ 1915.3 List of communities with special hazard areas.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
*	*	*	*	*	*	*
Arkansas	Benton	Siloam Springs, city of.	H 050014A 01 through H 050014A 02	Division of Soil and Water Resources, State Department of Commerce, 1020 West Capitol Ave., Little Rock, Ark. 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204.	Mayor, City of Siloam Springs, City Hall, Siloam Springs, Ark. 72761.	May 10, 1974. Oct. 17, 1975.
Do.	Columbia	Waldo, city of	H 050043A 01	do	Recorder/Treasurer, City Hall, Waldo, Ark. 71770.	Apr. 5, 1974. Oct. 17, 1975.
Do.	Desha	Watson, city of	H 050072A 01	do	Mayor, City of Watson, City Hall, Watson, Ark. 71674.	Aug. 30, 1974. Oct. 17, 1975.
Do.	Fulton	Mammoth Spring, city of.	H 050082A 01	do	Mayor, City of Mammoth Spring, City Hall, Mammoth Spring, Ark. 72554.	Mar. 15, 1974. Oct. 17, 1975.
Do.	Independence	Newark, city of	H 050092A 01	do	Mayor, City Hall, Newark, Ark. 72562.	Mar. 15, 1974. Oct. 17, 1975.
Do.	Jefferson	Wabbaseka, city of.	H 050111A 01	do	Mayor, City of Wabbaseka, City Hall, Wabbaseka, Ark. 72175.	May 10, 1974. Oct. 17, 1975.
Do.	Lincoln	Gould, city of	H 050127A 01	do	Mayor, City of Gould, Gould, Ark. 71643.	May 3, 1974. Oct. 17, 1975.
Do.	Mississippi	Luxora, city of	H 050148A 01	do	Mayor, City Hall, Luxora, Ark. 72358.	Oct. 12, 1973.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Montgomery	Norman, city of	H 050158A 01	do	Mayor, City of Norman, City Hall, Norman, Ark. 71960.	Aug. 23, 1974. Oct. 17, 1975.
Do.	Scott and Sebastian.	Mansfield, city of	H 050202A 01	do	Mayor, City Hall, Mansfield, Ark. 72944.	Mar. 15, 1974. Oct. 17, 1975.
Do.	Sevier	DeQueen, city of	H 050204A 01 through H 050204A 02	do	Mayor, City Hall, DeQueen, Ark. 71832.	Mar. 15, 1974. Oct. 17, 1975.
Do.	Union	Huttig, city of	H 050208A 01	do	Mayor, City Hall, Huttig, Ark. 71747.	May 24, 1974. Oct. 17, 1975.
Do.	do	Smackover, city of.	H 050209A 01	do	Mayor, City Hall, Smackover, Ark. 71762.	Oct. 26, 1973. Oct. 17, 1975.
California	Contra Costa	San Pablo, city of.	H 060036A 01 through H 060036A 05	Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 600 South Commonwealth Ave., Los Angeles, Calif. 90005.	Mayor, City Hall, 2021 Market Ave., San Pablo, Calif. 94806.	Mar. 15, 1974. Oct. 17, 1975.
Do.	Fresno	Coalinga, city of	H 060045A 01 through H 060045A 04	do	Mayor, City of Coalinga, 6th and Elm Sts., City Hall, Coalinga, Calif. 93210.	Mar. 1, 1974. Oct. 17, 1975.
Do.	Kern	Delano, city of	H 060078A 01 through H 060078A 02	do	Mayor, City Hall, 1118 Jefferson St., Delano, Calif. 93215.	May 24, 1974.
Do.	Los Angeles	South Gate, city of.	H 060163A 01 through H 060163A 03	do	Director of Public Works, City Hall, South Gate, Calif. 90280.	June 28, 1974. Oct. 17, 1975.
Do.	San Diego	Del Mar, city of	H 060288A 01 through H 060288A 04	do	Mayor, City Hall, 201 15th St., Del Mar, Calif. 92014.	Feb. 22, 1974. Oct. 17, 1975.
Do.	Stanislaus	Waterford, city of	H 060303A 01 through H 060303A 02	do	Mayor, City Hall, 320 St., Waterford, Calif. 95386.	May 24, 1974. Oct. 17, 1975.
Connecticut	New Haven	Southbury, town of.	H 090089A 01 through H 090089A 14	Department of Environmental Protection, Division of Water and Related Resources, Room 207, State Office Bldg., Hartford, Conn. 06115. Connecticut Insurance Department, State Capitol Bldg., 165 Capitol Ave., Hartford, Conn. 06115.	Town Engineer, P.O. Box 348, Southbury, Conn. 06488.	Feb. 8, 1974. Oct. 17, 1975.
Georgia	White	Helen, city of	H 130192A 01	Department of Natural Resources, Office of Planning and Research, 270 Washington St. SW., Room 707, Atlanta, Ga. 30334. Georgia Insurance Department, State Capitol, Atlanta, Ga. 30334.	Mayor, Box 146, Helen, Ga. 30546.	Sept. 6, 1974. Oct. 17, 1975.
Illinois	Clay	Clay City, village of.	H 170012A 01	Governor's Task Force on Flood Control, 300 North State St., Room 1010, P.O. Box 475, Chicago, Ill. 60610. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702.	Village President, Box 548, Clay City, Ill. 62824.	Mar. 22, 1974. Oct. 17, 1975.
Do.	Grundy	Carbon Hill, village of.	H 170257A 01	do	Village President, Village of Carbon Hill, Route 1, Coal City, Ill. 60416.	Mar. 8, 1974.
Do.	Lake	North Barrington, village of.	H 170383A 01	do	Village President, 269 Brookside, Village of North Barrington, Barrington, Ill. 60010.	Mar. 22, 1974. Oct. 17, 1975.
Do.	Moultrie	Sullivan, City of	H 170524A 01	do	Mayor, city Building, Sullivan, Ill. 61951.	Sept. 20, 1974.
Indiana	Henry	Middletown, town of.	H 180331A 01 through H 180331A 02	Division of Water, Department of Natural Resources, 608 State Office Bldg., Indianapolis, Ind. 46204. Indiana Insurance Department, 509 State Office Bldg., Indianapolis, Ind. 46204.	Town Board President, City Building, Middletown, Ind. 47356.	Feb. 1, 1974. Oct. 17, 1975.
Kansas	Clark	Minneola, city of	H 200051A 01	Division of Water Resources, Kansas Department of Agriculture, 1720 South Topeka Ave., Topeka, Kans. 66612. Kansas Insurance Department, 1st Floor, Statehouse, Topeka, Kans. 66612.	Mayor, City Hall, 126 Main Street, Minneola, Kans. 67865.	Feb. 8, 1974. Oct. 17, 1975.
Do.	Coffey	Waverly, city of	H 200008A 01	do	Mayor, City Hall, Pearson Avenue, Waverly, Kans. 66871.	Feb. 15, 1974. Oct. 17, 1975.
Do.	Harper	Harper, city of	H 200129A 01	do	Mayor, City Hall, 201 West Main, Harper, Kans. 67058.	Aug 16, 1974. Oct. 17, 1975.
Do.	Johnson	Westwood, city of.	H 200179A 01	do	Mayor, City Hall, Westwood, Kans. 66205.	Aug. 16, 1974.
Do.	Phillips	Logan, city of	H 200205A 01	do	Mayor, City Hall, Main Street, Logan, Kans. 67646	July 19, 1974. Oct. 17, 1975.
Do.	Rawlins	Atwood, city of	H 200280A 01	do	Mayor, City Hall. City of Atwood, 416 Main St., Atwood, Kans. 67730.	Feb. 15, 1974. Oct. 17, 1975.
Kentucky	Hancock	Lewisport, city of.	H 210003A 01	Division of Water, Kentucky Department of Natural Resources, Capitol Plaza Office Tower, Frankfort, Ky. 40601. Kentucky Insurance Department, Old Capitol Annex, Frankfort, Ky. 40601.	Mayor, Box 22, Lewisport, Ky. 42351.	Jan. 25, 1974. Feb. 1, 1974. Oct. 17, 1975.
Louisiana	Franklin Parish	Winner, town of	H 220075A 01	State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804.	Mayor, Town of Winner, Town Hall, Winner, La. 71378.	Mar. 29, 1974. Oct. 17, 1975.
Do.	St. Landry Parish	Opelousas, city of.	H 220173A 01 through H 220173A 03	do	Mayor, City of Opelousas, City Hall, Opelousas, La. 70570.	June 14, 1974. Oct. 17, 1975.
Do.	Webster Parish	Cullen, town of	H 220235A 01	do	Mayor, Town Hall, Cullen, La. 71021.	Apr. 12, 1974. Oct. 17, 1975.
Do.	do	Doyline, village of.	H 220236A 01	do	Mayor, Village of Doyline, Village Hall, Doyline, La. 71023.	Apr. 5, 1974. Oct. 17, 1975.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Massachusetts	Worcester	Leominster, city of.	H 250314A 01 through H 250314A 12	Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. 02202.	City Solicitor, City of Leominster, 65 Pleasant St., Leominster, Mass. 01453.	Mar. 22, 1974. Oct. 17, 1975.
Michigan	Wayne	Dearborn Heights, city of.	H 260221A 01 through H 260221A 06	Water Resources Commission, Bureau of Water Management, Stevens T. Mason Bldg., Lansing, Mich 48926. Michigan Insurance Bureau, 111 North Hosmer St., Lansing, Mich. 48913.	Mayor, City Hall, Dearborn Heights, Mich.	July 19, 1974. Oct. 17, 1975.
Minnesota	Hennepin	Richfield, city of.	H 270180A 01 through H 270180A 04	Division of Waters, Soils, and Minerals, Department of Natural Resources, Centennial Office Building, St. Paul, Minn. 55101. Minnesota Division of Insurance, R-210 State Office Bldg., St. Paul, Minn. 55101.	City Manager, 6700 Portland Ave., Richfield, Minn. 55423.	May 17, 1974. Oct. 17, 1975.
Do	Itasca	La Prairie, city of.	H 270206A 01	do	Mayor, City of La Prairie, City Hall, Grand Rapids, Minn. 55744.	Aug. 23, 1974. Oct. 17, 1975.
Do	Ramsey	Lauderdale, city of.	H 270376A 01	do	Mayor, City of Lauderdale, 1765 Carl St., St. Paul, Minn. 55113.	May 10, 1974. Oct. 17, 1975.
Mississippi	Hinds and Rankin.	Jackson, city of.	H 280072A 01 through H 280072A 25	Mississippi Research and Development Center, P.O. Drawer 2470, Jackson, Miss. 39205. Mississippi Insurance Department, 910 Woolfolk Bldg., P.O. Box 79, Jackson, Miss. 39205.	Mayor, City Hall, Jackson, Miss., no ZIP code.	Oct. 6, 1974. Oct. 17, 1975.
Missouri	Pike	Bowling Green, city of.	H 290288A 01 through H 290288A 02	Department of Natural Resources, Division of Program and Policy Development, State of Missouri, 308 East High St., Jefferson City, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101.	Mayor, City of Bowling Green, City Hall, Bowling Green, Mo. 63334.	Mar. 22, 1974. Oct. 17, 1975.
Do	Ripley	Doniphan, city of.	H 290313A 01	do	Mayor, City Hall, 188 State St., Doniphan, Mo. 63935.	Mar. 1, 1974. Oct. 17, 1975.
Do	Wright	Mountain Grove, city of.	H 290456A 01 through H 290456A 02	do	Mayor, City Hall, Mountain Grove, Mo. 65711.	Apr. 5, 1974. Oct. 17, 1975.
Montana	Cascade	Great Falls, city of.	H 300010A 01 through H 300010A 06	Montana Department of Natural Resources and Conservation, Water Resources Division, 32 South Ewing St. Helena, Mont. 59601. Montana Insurance Department, Capitol Bldg., Helena, Mont. 59601.	Planner, Great Falls City-County Planning Board, Room 108, Civic Center Bldg., Great Falls, Mont. 59401.	June 28, 1974. Oct. 17, 1975.
Do	Mineral	Alberton, town of.	H 300089A 01	do	Mayor, Town Hall, Alberton, Mont. 59820.	June 27, 1975.
New Jersey	Monmouth	Holmdel, township of.	H 340300A 01 through H 340300A 06	Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625.	Mayor, Box 385, Holmdel, N.J. 07733.	Feb. 1, 1974. Oct. 17, 1975.
Do	Union	Winfield, township of.	H 340479A 01	do	Mayor, 12 Gulfstream Ave., Winfield, N.J. 07036.	Mar. 8, 1974.
Do	Warren	Mansfield, township of.	H 340491A 01 through H 340491A 10	do	Mayor, Township of Mansfield, Municipal Bldg., Box 105, Port Murray, N.J. 07865.	Aug. 16, 1974. Oct. 17, 1975.
New York	Allegany	Wellsville, village of.	H 360036A 01	New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 2 World Trade Center, N.Y. 12201.	Mayor, Municipal Bldg., Wellsville, N.Y. 14895.	Nov. 9, 1973. Oct. 17, 1975.
Do	Broome	Binghamton, city of.	H 360031A 01 through H 360031A 15	do	Mayor's Office, Binghamton, N.Y. 13901.	Apr. 12, 1974. Oct. 17, 1975.
Do	Cayuga	Union Springs, village of.	H 360129A 01	do	Mayor, Box 99, Union Springs, N.Y. 13160.	Apr. 11, 1975. Oct. 17, 1975.
Do	Erie	Orchard Park, village of.	H 360254A 01	do	Mayor, 8 4295 South Buffalo St., Orchard Park, N.Y. 14127.	June 7, 1974.
Do	Jefferson	Lorraine, town of.	H 360342A 01 through H 360342A 03	do	Town Supervisor, Lorraine, N.Y. 13659.	May 10, 1974. Oct. 17, 1975.
Do	St. Lawrence	Fowler, town of.	H 360698A 01 through H 360698A 07	do	Town Supervisor, Town of Fowler, Hailesboro, N.Y. 13645.	Nov. 1, 1974. Oct. 17, 1975.
Do	Saratoga	Malta, town of.	H 360720A 01 through H 360720A 13	do	Supervisor, Town of Malta, Box 254, Town Hall, Round Lake, N.Y. 12151.	Oct. 18, 1974.
Do	Westchester	Mt. Pleasant, town of.	H 360919A 01 through H 360919A 05	do	Town Supervisor, town of Mt. Pleasant, 49 Beerman Ave., North Tarrytown, N.Y. No ZIP code.	May 3, 1974. Oct. 17, 1975.
Do	Seneca	Tyre, town of.	H 361206A 01 through H 361206A 10	do	Town Supervisors, town of Tyre, R.D. #1, Seneca Falls, N.Y. 13148.	Oct. 18, 1974. Oct. 17, 1975.
North Carolina	Buncombe	Woodfin, town of.	H 370380A 01 through H 370380A 03	Division of Community Assistance, Department of Natural and Economic Resources, P.O. Box 27687, Raleigh, N.C. 27611. North Carolina Insurance Department, P.O. Box 26387, Raleigh, N.C. 27611.	Mayor, Box 8385, Woodfin, N.C. 28804.	July 25, 1975. Oct. 17, 1975.
Oregon	Coos	Powers, city of.	H 410019A 01	Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th St. NE., Salem, Oreg. 97310.	Mayor, City Hall, P.O. Box 250, Powers, Oreg. 97466.	Nov. 23, 1973.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Pennsylvania	Bucks	Middletown, township of	H 420193A 01 through H 420193A 10	Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120.	Township Manager, township of Middletown, 700 New Rodgers Rd., Levittown, Pa. 19055.	May 31, 1974. Oct. 17, 1975.
Do	Westmoreland	New Alexandria, borough of.	H 420889A 01 through H 420889A 02	do	Mayor, Pleasant Vue Dr., New Alexandria, Pa. 15670.	June 28, 1974. Oct. 17, 1975.
Do	York	Seven Valleys, borough of.	H 420936A 01	do	Mayor, 73 Church St., Seven Valleys, Pa. 17360.	May 3, 1974. Oct. 1, 1975.
Do	Delaware	Darby, township of.	H 421603A 01 through H 421603A 03	do	Township Commissioners, President, 1436 Forrester Ave., township of Darby, Sharon Hill, Pa. 19079.	Aug. 30, 1974. Oct. 17, 1975.
Do	Lancaster	Mt. Joy, township of.	H 421776A 01 through H 421776A 11	do	Township Supervisors, Chairman, R.D. #1, township of Mt. Joy, Elizabethtown, Pa. 17022.	Dec. 27, 1974. Oct. 17, 1975.
Do	Lehigh	Heidelberg, township of.	H 421809A 01 through H 421809A 02	do	Township Board of Supervisors, R.D. #2, township of Heidelberg, Slatington, Pa. 18080.	Dec. 27, 1974. Oct. 17, 1975.
Do	York	West Manchester, township of.	H 422233A 01 through H 422233A 12	do	Township Board of Supervisors, Chairman, 2309 Monroe St., York, Pa. 17404.	Nov. 15, 1974. Oct. 17, 1975.
South Carolina	Hampton	Yemassee, town of.	H 450103A 01 through H 450103A 02	South Carolina Water Resources Commission, P.O. Box 4545, Columbia, S.C. 29240. South Carolina Insurance Department, 2711 Middleburg St., Columbia, S.C. 29204.	Mayor, Box 114, Yemassee, S.C. 29945	June 21, 1974. Oct. 17, 1975.
Texas	Atascosa	Pleasanton, city of.	H 480015A 01 through H 480015A 05	Texas Water Development Board, P.O. Box 13087, Capitol Station, Austin, Tex. 78711. Texas Insurance Department, 1110 San Jacinto St., Austin, Tex. 78701.	City Secretary, City Hall, Pleasanton, Tex. 78064.	June 21, 1974. Oct. 17, 1975.
Do	Liberty	Cleveland, city of.	H 480430A 01 through H 480430A 04	do	City Manager, City Hall, Cleveland, Tex. 77327.	Mar. 8, 1974.
Virginia	Henry	Ridgeway, town of.	H 510079A 01	Bureau of Water Control Management, State Water Control Board, P.O. Box 1143, Richmond, Va. 23230. Virginia Insurance Department, 700 Blanton Bldg., P.O. Box 1157, Richmond, Va. 23209.	Mayor, Ridgeway, Va. 24148	June 28, 1974. Oct. 17, 1975.
West Virginia	Kanawha	Nitro, city of.	H 540081A 01 through H 540081A 02	Office of Federal-State Relations, Division of Planning and Development, Capitol Bldg., Room 150, Charleston, W. Va. 25305. West Virginia Insurance Commission, 1800 Washington St., Building #3, Room 643, Charleston, W. Va. 25305.	Mayor, Box 515, Nitro, W. Va. 25143	Mar. 15, 1974. Oct. 17, 1975.
Do	McDowell	War, town of.	H 540122A 01 through H 540122A 03	do	Mayor, Box 365, War, W. Va. 24892	May 31, 1974.
Do	Putnam	Buffalo, town of.	H 540166A 01 through H 540166A 02	do	Mayor, Town Hall, Box 217, Buffalo, W. Va. 25033.	Feb. 1, 1974. Oct. 17, 1975.
Do	Upshur	Buckhannon, city of.	H 540190A 01 through H 540190A 05	do	Mayor, City Hall, Buckhannon, W. Va. 26201.	June 28, 1974.
Do	Wood	Williamstown, city of.	H 540216A 01 through H 540216A 04	do	Mayor, City Bldg., Williamstown, W. Va. 26187.	May 17, 1974. Oct. 17, 1975.
Wisconsin	Iowa	Dodgeville, city of.	H 550177A 01 through H 550177A 02	Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 201 East Washington Ave., Madison, Wis. 53703.	Mayor, City Hall, Dodgeville, Wis. 53533.	Sept. 20, 1974. Oct. 17, 1975.
Do	Outagamie	Kimberly, village of.	H 550306A 01	do	Village President, 515 West Kimberly Ave., Kimberly, Wis. 54136.	June 14, 1974. Oct. 17, 1975.

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

Issued: October 14, 1975.

J. ROBERT HUNTER,
Acting Federal Insurance Administrator.

[FR Doc.75-28293 Filed 10-21-75;8:45 am]

CHAPTER IV—OFFICE OF ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

[Docket No. R-75-314]

PART 403—LOCAL RENT CONTROL

The Department of Housing and Urban Development published an interim rule on February 26, 1975, (40 FR 8189) adding a new Part 403, designated "Local Rent Control", to Chapter IV of Title 24, which was amended by interim rule on May 8, 1975 (40 FR 20081). The interim rule prescribes the conditions under which the Department will assert exclusive jurisdiction or will preempt rent regulation by local rent control boards acting pursuant to state or local law.

Interested persons were given the opportunity to participate in the final rule making process through the submission of data, views and comments on the interim rules. The Department received 577 responses, of which 544 were form letters from tenants in one state protesting the implementation of the rule. Each of the remaining 33 responses contained several comments, some of which pertained to substantive matters while others pertained to technical changes.

Since we have added a new Subpart A designated "General Provisions" in the final rule, which subpart is further described below, Subparts A, B and C of the interim rule are hereinafter referred to as Subparts B, C and D, respectively. In addition, the section numbers in the final

rule have been changed because of the new subpart and all section numbers used in this preamble refer to the final rule.

Several suggestions were made that projects within the scope of Subparts C and D be handled on a case-by-case basis which would be consistent with Subpart B. There were contrary suggestions that rent regulation of projects covered by Subpart B be preempted in the same manner as projects falling within Subparts C and D. The Department has determined that the situation is more urgent and that there is a greater need to preserve the continued viability of subsidized insured projects as a housing resource for low-income families and to protect the Department's economic interests in the subsidized insured and HUD-owned projects than in the nonsubsidized insured projects. Consequently, a case-by-case approach would not be feasible for projects falling under Subparts C and D, nor is preemption of the entire field of local rent control essential for Subpart B projects.

Some comments contained statements that preemption was not necessary to protect the mortgagor from increases in expenses because local rent control ordinances permit an annual increase and also provide for hardship increases. However, we also received several comments that the annual increase percentages were arbitrary and bore no relationship to the actual costs incurred by a mortgagor in operating and maintaining a residential rental property. In addition, it was stated that the procedures necessary for a mortgagor to obtain a hardship increase from a local rent control board were so cumbersome and took so long that, when the increase was approved, if it were approved, it was often too late to prevent the project from going into default.

There were a few comments to the effect that public hearings should be held. The Department provided interested persons 60 days in lieu of the usual 30 days in which to comment on the interim rule. In addition, 30 days were provided for interested persons to submit their comments on the clarification to the interim rule published on May 8, 1975, at 40 FR 20081. The Department is satisfied that ample opportunity was given for persons to comment on the interim rules. All comments received by the Department were reviewed and seriously considered before the adoption of this final rule. Therefore, we consider that no useful purpose would be served by providing a public hearing on this matter.

Several persons commented that the Department did not have the authority nor was there Congressional intent for HUD to issue regulations preempting local rent control boards. The Department of Housing and Urban Development Act authorizes the Secretary to issue regulations to carry out the purposes of the National Housing Act, U.S. Housing Act of 1937 and Housing Act of 1959 which provide for the regulation of rents. Such authorization is an expression of Congressional intent for the Department to take the necessary action to carry out the Congressional mandate to provide assistance for housing.

There were several comments to the effect that mortgage defaults were not precipitated by local rent control ordinances, but by many other factors, such as desire on the part of landlords for excessive returns, tax structures, high utility costs, poor maintenance and poor management. The Department is aware that there are many factors which contribute to mortgage defaults and does not consider local rent control ordinances as the sole factor, but rather as a significant factor in causing owners of FHA projects, especially subsidized projects, to default on their mortgage payments and to lose interest in project ownership. The Department continuously reviews methods of improving management procedures in an effort to aid mortgagors to achieve economies in operation. The Department has no control over some of the other factors contributing to mortgage defaults, such as tax structures and high utility costs.

Many persons stated that preemption by the Department of a local rent control board's right to determine rents would result in higher rents without any participation by tenants of subsidized projects in determination of rent increases. The Department is aware of this concern by tenants and on September 11, 1974, published an interim rule designated as "Part 401—Notice to Tenants and Consideration of their Comments in Effecting Rent Increases" which permits tenants of subsidized projects to participate in the Department's rent increase procedure. On July 10, 1975, the Department published its final rule for this procedure at 40 FR 29073.

We have made several changes in the interim rules as a result of comments received or because of reconsideration of some of our policy decisions. All of the modifications were intended to make the final rule clearer and to more effectively accomplish the Department's purpose of providing housing at reasonable rents and at levels sufficient to cover mortgage payments and reasonable expenses of operation of the project. The basic concepts of the interim rules have been retained in the final rule. The following changes have been made to the interim rules to elaborate on the procedures of the interim rules and not to implement new concepts.

A new Subpart A has been added to set forth the scope and effect of these regulations. Section 403.1(b) provides that any state or local law, ordinance, or regulation is without force and effect insofar as it purports to regulate rents of projects for which HUD has made a determination of preemption in accordance with Subpart B, or projects coming within the scope of Subpart C or D. Compliance with any such law, ordinance, or regulation shall not be required as a condition for bringing an eviction action against a tenant. Section 403.1(c) states that the purpose of these regulations is to preempt all actions of a local rent control board that would impede the implementation of the HUD approved rents or interfere with the collection of the rental charges approved by HUD. Section 403.1(d) confers a right on owners, mortgagors or managing agents to offer these regulations as a defense in a proceeding brought by someone who seeks to interfere with the collection of rental charges approved by HUD.

The reference to "Part 401 of this Chapter" in Subpart B was erroneously placed there and has been removed in the final rule. Section 403.6(a) pertains to unsubsidized housing and Part 401 of this Chapter pertains to rent increases in subsidized projects. Reference to Part 401 is now included in the appropriate section of Subpart C.

The phrase "increases in rental charges" has been substituted for the phrase "maximum permissible rents" in § 403.6(a) to make it clear that HUD processes a request for increases in rental charges to determine the minimum rents necessary to assure payment of debt service, return on investment (if other than a nonprofit mortgagor) and operating expenses.

A requirement has been added to § 403.6(a) for the mortgagor to notify the local rent control board that it has also submitted an application to HUD for approval of rent increases which may be affected by these regulations. The local rent control board will then be on notice that if it approves a lesser increase than HUD or fails to make a decision within 30 days of receiving the application, HUD will preempt local rent controls as to that project if the Office of Loan Management in Central Office determines that the Department's economic interest will be jeopardized and makes a certification to that effect, pursuant to § 403.6(e). A new paragraph (f) has been added to § 403.6 which states when the mortgagor may implement the HUD approved rents.

The necessary procedures for a mortgagor and HUD to follow in the application and processing of a rent increase for a subsidized project have been expanded as set forth in § 403.10 of Subpart C. The mortgagor does not submit an application to the local rent control board, but under paragraph (b), HUD shall notify the local rent control board that it is processing an application submitted by the mortgagor for an increase in rental charges and that HUD has preempted the field of local rent regulations as it affects the mortgagor's project. Section 403.10(c) provides that the mortgagor may effect collection of the HUD approved rents in accordance with Part 401 of this Chapter, and is required to furnish the local rent control board a copy of the HUD approved rent schedule after the new rents have become effective. This section also contains a statement that the notice to the local rent control board of the approved increases does not confer upon the board a right to approve or disapprove the Department's action or to exercise jurisdiction

over the implementation of approved rent increases by the mortgagor.

We have added a provision to § 403.13 (a) of Subpart D for the local HUD office to notify the local rent control board that it is considering approval of rent increases for a project and that the Department has exclusive jurisdiction over the rents for the project. Section 403.13 (b) provides for the local HUD office to furnish the local rent control board with a schedule of the increased rents after they have become effective. This section also contains the same statement, negating any conferral upon the board of a right to approve or disapprove of the Department's action, as is found in § 403.10 (c) of Subpart C.

The new Subpart A was added, and the changes in Subparts B, C and D were made, in order that the Department's procedures in the area of rent regulation would be clear and the Department's position unequivocal. The changes also provide for notice to the rent control board of mortgagors' applications for rent increases and of HUD's action with respect to the applications. The purpose of the notices is to keep the local rent control board apprised of the lawful rents for projects covered by these subparts.

The provisions of this part apply to any project which falls within the scope of Subpart B, C, or D for which a rent increase was approved by HUD on or after February 26, 1975.

The Department has determined that this final rule will not have a substantial impact upon the quality of the environment as defined in HUD Handbook 1390.1. The Finding of Inapplicability prepared in connection with the interim rule is applicable to this final rule and a copy of such Finding is on file with the Rules Docket Clerk, Office of General Counsel, Room 10245, 451 Seventh Street, SW., Washington, D.C. 20410.

Accordingly, the interim rule, adding Part 403 to Chapter IV of Title 24, published in the FEDERAL REGISTER on February 26, 1975 (40 FR 8189) as amended on May 8, 1975 (40 FR 20081) is hereby amended and adopted as a final rule as follows:

Subpart A—General Provisions

Sec.
403.1 Scope and effect of regulations.

Subpart B—Unsubsidized Insured Projects

403.4 Applicability.
403.5 Rental charges.
403.6 Procedures.

Subpart C—Subsidized Insured Projects

403.8 Applicability.
403.9 Rental charges.
403.10 Procedures.

Subpart D—HUD-Owned Projects

403.12 Rental charges.
403.13 Procedures.

Subpart A—General Provisions

§ 403.1 Scope and effect of regulations.

(a) The regulation of rents for a project coming within the scope of "Subpart B—Unsubsidized Insured Projects" is preempted under these regulations only when the Department determines that the delay or decision of the local rent control board, or other authority regulating rents pursuant to state or local law (hereinafter referred to as board) jeopardizes the Department's economic interest in a project covered by that subpart. The regulation of rents for projects coming within the scope of "Subpart C—Subsidized Insured Projects" is preempted in its entirety by the promulgation of these regulations. The regulation of rents for projects coming within the scope of "Subpart D—HUD-Owned Projects" rests within the exclusive jurisdiction of the Department.

(b) Any state or local law, ordinance, or regulation is without force and effect insofar as it purports to regulate rents of (i) projects for which a determination of preemption has been made pursuant to Subpart B, or (ii) projects coming within the scope of Subpart C or D. Compliance with such law, ordinance, or regulation shall not be required as a condition of, or prerequisite to, the remedy of eviction, and any law, ordinance, or regulation which purports to require such compliance is similarly without force and effect.

(c) It is the purpose of the Department that these regulations shall bar all actions of a board that would in any way frustrate the purpose or effect of these regulations or that would in any way delay, prevent or interfere with the implementation of any increase in rental charges approved by HUD.

(d) These regulations may be offered as a defense to a proceeding by whomever initiated, which may be brought or threatened to be brought against any owner, mortgagor or managing agent of a project subject to these regulations who demands, receives or retains, or seeks to demand, receive or retain, rental charges approved by HUD, or as a basis for declaratory, injunctive or other relief against any person or agency, public or private, who attempts to enforce, or threatens to enforce, any state or local law, ordinance, or regulation which is without force and effect by reason of this regulation.

Subpart B—Unsubsidized Insured Projects

§ 403.4 Applicability.

This subpart applies to all projects with mortgages insured or held by HUD, except those to which Subpart C applies.

§ 403.5 Rental charges.

The Department will generally not interfere in the regulation by a local rent control board (hereinafter referred to as board) of rents for unsubsidized projects with mortgages insured or held by HUD. However, HUD will preempt the regulation of rents for such a project when the Department determines that the delay or decision of a board, or other authority regulating rents pursuant to state or local law, jeopardizes the Department's economic interest in the project.

§ 403.6 Procedures.

(a) The mortgagor shall file its application for approval of increases in rental charges with the appropriate local office of HUD, and simultaneously therewith file an application for approval of those increases with any board in the area in which the project is located. The mortgagor shall also notify the board in writing that it has submitted an application to HUD for approval of the increases which may be affected by the provisions of the regulations in this subpart.

(b) The local HUD office will process the application for increases in rental charges in accordance with HUD's instructions and procedures promulgated in accordance with the authority contained in the National Housing Act.

(c) The mortgagor shall inform the local HUD office if the rents approved for the project by the board are lower than those approved by HUD, or if the board fails to render a decision on the mortgagor's application for increases in rental charges within a period of thirty (30) days following the filing of the application. The mortgagor shall furnish the local HUD office with any data supplied to the board not previously furnished to the local HUD office, and, if the mortgagor considers that the economic interest in the project is jeopardized by the decision or delay of the board, a statement to that effect together with the reasons therefor.

(d) The local HUD office will review the information submitted by the mortgagor, together with the decision of the board, if any, and shall make a report if it deems the delay or decision of the board jeopardizes the Department's economic interest in the project and the board will not modify its position to the satisfaction of the local HUD office. The report shall be sent to the Office of Loan Management in the Central Office (hereinafter referred to as Office of Loan Management) and shall include appropriate recommendations concerning the action that should be taken by HUD. A copy of the report and recommendations shall be furnished the Regional Office.

(e) The Office of Loan Management will review the report and will consider whether to approve rents higher than those approved by the board, or to approve a rent increase notwithstanding the failure of the board to reach a decision on the application. If the decision of the Office of Loan Management is to approve (1) rents higher than those approved by the board, or (2) a rent increase notwithstanding the delay of the board in reaching a decision, it shall issue a formal certification that it has preempted local rent controls as to such rents in order to protect the Department's economic interest in the project. Copies of the certification shall be transmitted to the mortgagor, the local HUD office, the Regional Office, and the board.

(f) The mortgagor may effect collection of the HUD approved rents after

the expiration of 30 days notice to the tenants, subject to whatever rights a tenant may have under his lease.

Subpart C—Subsidized Insured Projects

§ 403.8 Applicability.

This subpart applies to all projects with mortgages insured or held by HUD, which receive a subsidy in the form of: (a) interest reduction payments pursuant to Section 236 of the National Housing Act; (b) below-market interest rates pursuant to Section 221(d) (3) and (5) of the National Housing Act; (c) direct loans at below-market interest rates pursuant to Section 202 of the Housing Act of 1959; or (d) rent supplement payments pursuant to Section 101 of the Housing and Urban Development Act of 1965 and/or housing assistance payments pursuant to (1) Section 8 of the United States Housing Act of 1937, or (2) Section 23 of the United States Housing Act of 1937 in effect prior to January 1, 1975, if 10 percent or more of the units in a project receive either rent supplement payments or housing assistance payments.

§ 403.9 Rental charges.

The Department finds that it is necessary and desirable to minimize defaults by the mortgagor in its financial obligations with regard to projects covered by this subpart, and to assist mortgagors to preserve the continued viability of those projects as a housing resource for low-income families. The Department also finds that it is necessary and desirable to protect the substantial economic interest of the Federal Government in those projects. Therefore, the Department concludes that it is in the national interest to preempt, and it does hereby preempt, the entire field of rent regulation by local rent control boards, (hereinafter referred to as board), or other authority, acting pursuant to state or local law as it affects projects covered by this subpart.

§ 403.10 Procedures.

(a) The mortgagor shall file its application for approval of increases in rental charges with the appropriate local office of HUD.

(b) The local HUD office will process the application for increases in rental charges in accordance with HUD's regulations, including Part 401 of this chapter, and instructions and procedures, all adopted pursuant to the statutory authority described in Section 403.8, and shall notify in writing any board in the area in which the project is located that it is processing the application and, that, pursuant to this subpart, HUD has preempted the entire field of rent regulation by a board acting pursuant to state or local law as it affects the project.

(c) The mortgagor may effect collection of the new rents in accordance with the procedures described in Part 401 of this chapter. The mortgagor shall furnish the board a schedule of any new rents approved by HUD within ten (10) days after the approved rents have become effective. Notice to the board of the approved increases in rents does not confer upon the board a right to approve or disapprove the Department's action or to exercise jurisdiction over the implementation of the rent increases by the mortgagor. The sole purpose of the notice is to inform the board of the lawful rents that may be charged for projects covered by this subpart.

Subpart D—HUD-Owned Projects

§ 403.12 Rental charges.

The Department has exclusive jurisdiction over the rents of all projects which it owns, irrespective of the existence, or the provisions, of any State or local rent control law or ordinance.

§ 403.13 Procedures.

(a) The local HUD office will notify in writing any local rent control board (hereinafter referred to as board) in the area in which the project is located that it is considering increasing the rents for a project within the scope of this subpart, and that the increases are expected to become effective after the expiration of thirty (30) days notice to the tenants, subject to whatever rights a tenant may have under a lease. The local HUD office will also notify the board that, pursuant to this subpart, the Department has exclusive jurisdiction over the rents for the project.

(b) After the increases have become effective, the local HUD office will furnish the board a schedule of the new rents that are being charged by HUD. Notice to the board of the increased rents does not confer upon the board a right to approve or disapprove of the Department's action, or to exercise jurisdiction over the implementation of the rent increases by the Department. The sole purpose of the notice is to inform the board of the lawful rents that may be charged for projects covered by this subpart.

(Section 7(d), Department of Housing and Urban Development Act; 42 U.S.C. 3535(d).)

Effective date. This amendment will be effective October 22, 1975.

It is hereby certified that the economic and inflationary impacts of this final rule have been carefully evaluated in accordance with OMB Circular A-107.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.75-28494 Filed 10-21-75;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

(T.D. 7384)

Determination of Interest Rates

By a notice of proposed rule making appearing in the FEDERAL REGISTER on August 20, 1975 (40 FR 36366) amendments to the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), the Gift Tax Regulations (26 CFR Part 25), and the Regulations on Procedure and Administration (26 CFR Part 301) were proposed in order to conform such regulations to the changes made by section 7 of the Act of January 3, 1975 (Pub. L. 93-625, 88 Stat. 2115). The proposed amendments to the regulations are adopted by this document without change.

The Act increased the rate of interest payable on underpayments and overpayments of tax and increased the additions to tax for failure to pay the estimated tax. The rate shall be 9 percent per annum on amounts outstanding on July 1, 1975, or arising thereafter. The Act also provides for future adjustments of the rate. The first such adjustment may be made effective February 1, 1976.

Pursuant to paragraph 4(a) of Treasury Order 221 published in the Federal Register for June 10, 1972 (37 FR 11696), certain regulations of the Internal Revenue Service continue in effect as regulations of the Bureau of Alcohol, Tobacco and Firearms until superseded or revised. The regulations amended by this Treasury decision are among those that continue to apply for purposes of the laws administered by the Bureau in addition to applying for purposes of the laws administered by the Internal Revenue Service. The Director, Bureau of Alcohol, Tobacco and Firearms has, for this reason, joined as a signatory to this Treasury decision.

Adoption of amendments to the regulations. Based on the foregoing, the Income Tax Regulations (26 CFR Part 1), the Estate Tax Regulations (26 CFR Part 20), the Gift Tax Regulations (26 CFR Part 25), and the Regulations on Procedure and Administration (26 CFR Part 301) are hereby amended by adopting the proposed rules.

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

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.
DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: October 14, 1975.

CHARLES M. WALTER,
Assistant Secretary of the Treasury.

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

PARAGRAPH 1. Section 1.115-1 is amended by revising paragraph (a)(4) to read as follows:

§ 1.115-1 Bridges to be acquired by State or political subdivisions.

(a) * * *

(4) A statement, verified by a written declaration that it is made under the penalties of perjury, made by or on behalf of the taxpayer that the taxpayer thereby joins with and concurs in the request of the State or political subdivision thereof that a refund of an amount equal to all or a portion of the tax previously paid by such taxpayer be made to such State or political subdivision, that

the taxpayer agrees to receive the amounts refunded from the State or political subdivision to which it is paid and immediately to apply the entire amount of such refund in part payment for the acquisition of such bridge, and that if for any reason the contract which is the basis of the claim for refund is not fully executed and performed, the taxpayer will repay to the United States upon its demand the entire amount of the refund with interest at the annual rate referred to in the regulations under section 6621 from the date the refund is made without seeking or claiming the benefit of any statute of limitations which prior thereto may have run against the United States.

* * * * *

PAR. 2. Section 1.514(b) is amended by revising section 514(b)(3)(D) and the historical note to read as follows:

§ 1.514(b) Statutory provisions; unrelated debt-financed income; definition of debt-financed property.

Sec. 514. *Unrelated debt-financed income.* * * *

(b) *Definition of debt-financed property.* * * *

(3) *Special rules when land is acquired for exempt use within 10 years.* * * *

(D) *Refund of taxes when subparagraph (B) applies.* If an organization for any taxable year has not used land in the manner to satisfy the actual use condition of subparagraph (B) before the time prescribed by law (including extensions thereof) for filing the return for such taxable year, the tax for such year shall be computed without regard to the application of subparagraph (B), but if and when such use condition is satisfied, the provisions of subparagraph (B) shall then be applied to such taxable year. If the actual use condition of subparagraph (B) is satisfied for any taxable year after such time for filing the return, and if credit or refund of any overpayment for the taxable year resulting from the satisfaction of such use condition is prevented at the close of the taxable year in which the use condition is satisfied, by the operation of any law or rule of law (other than chapter 74, relating to closing agreements and compromises), credit or refund of such overpayment may nevertheless be allowed or made if claim therefor is filed before the expiration of 1 year after the close of the taxable year in which the use condition is satisfied.

* * * * *

(Sec. 514(b) as amended by sec. 121(d), Tax Reform Act 1969 (83 Stat. 543; sec. 7(b)(2), Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115))

PAR. 3. Section 1.514(b)-1 is amended by revising paragraph (d)(4)(i) to read as follows:

§ 1.514(b)-1 Definition of debt-financed property.

* * * * *

(d) *Property acquired for prospective exempt use.* * * *

(4) *Refund of taxes.* (i) If an organization has not satisfied the actual use condition of subparagraph (2) of this paragraph or paragraph (e)(3) of this section before the date prescribed by law (including extensions) for filing the return for the taxable year, the tax for such year shall be computed without regard to the application of such actual use condition. However, if—

(*a*) A credit or refund of any overpayment of taxes is allowable for a prior taxable year as a result of the satisfaction of such actual use condition, and

(*b*) Such credit or refund is prevented by the operation of any law or rule of law (other than chapter 74, relating to closing agreements and compromises), such credit or refund may nevertheless be allowed or made, if a claim is filed within 1 year after the close of the taxable year in which such actual use condition is satisfied. For a special rule with respect to the payment of interest at the rate of 4 percent per annum, see section 514(b)(3)(D), prior to its amendment by section 7(b) of the Act of January 3, 1975 (Pub. L. 93-625, 88 Stat. 2115).

* * * * *

PAR. 4. Section 1.6654 is amended by revising section 6654 (a) and the historical note to read as follows:

§ 1.6654 Statutory provisions; failure by individual to pay estimated income tax.

Sec. 6654. *Failure by individual to pay estimated income tax*—(a) *Addition to the tax.* In the case of any underpayment of estimated tax by an individual, except as provided in subsection (d), there shall be added to the tax under chapter 1 and the tax under chapter 2 for the taxable year an amount determined at an annual rate established under section 6621 upon the amount of the underpayment (determined under subsection (b) for the period of the underpayment (determined under subsection (c)).

* * * * *

(Sec. 6654 as amended by sec. 1(a)(4), Act of Sept. 25, 1962 (Pub. L. 87-682, 76 Stat. 575); secs. 102(b)(1), (2), (3), and 103(a), Tax Adjustment Act 1966 (80 Stat. 62, 64); sec. 301(b)(13), Tax Reform Act 1969 (83 Stat. 588); sec. 203(b)(7), Act of Mar. 17, 1971 (Pub. L. 92-5, 85 Stat. 7); sec. 203(b)(7), Act of July 1, 1972 (Pub. L. 92-836, 86 Stat. 420); sec. 203 (b)(7) and (d), Act of July 9, 1973 (Pub. L. 93-66, 87 Stat. 153); sec. 5(b)(7), Act of Dec. 31, 1973 (Pub. L. 93-233, 87 Stat. 954); sec. 7(c), Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115))

PAR. 5. Section 1.6654-1 is amended by revising the first sentence of paragraph (a)(2) to read as follows:

§ 1.6654-1 Addition to the tax in the case of an individual.

(a) *In general.* * * *

(2) The amount of the addition is determined at the annual rate referred to in the regulations under section 6621 upon the underpayment of any installment of estimated tax for the period from the date such installment is required to be paid until the 15th day of the fourth month following the close of the taxable year, or the date such underpayment is paid, whichever is earlier. * * *

PAR. 6. Section 1.6655 is amended by revising sections 6655 (a) and (g)(1) and the historical note to read as follows:

§ 1.6655 Statutory provisions; failure by corporation to pay estimated income tax.

Sec. 6655. *Failure by corporation to pay estimated income tax*—(a) *Addition to the tax.* In case of any underpayment of estimated tax by a corporation, except as provided in subsection (d), there shall be added to the tax under chapter 1 for the taxable year an amount determined at an annual rate established under section 6621 upon the amount of the underpayment (determined under subsection (b)) for the period of the underpayment (determined under subsection (c)).

* * * * *

(g) *Excessive adjustment under section 6425*—(1) *Addition to tax.* If the amount of an adjustment under section 6425 made before the 15th day of the third month following the close of the taxable year is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at an annual rate established under section 6621 upon the excessive amount from the date on which the credit is allowed or the refund is paid to such 15th day.

* * * * *

(Sec. 6655 as amended by sec. 122(c), Rev. Act 1964 (78 Stat. 28); sec. 103 (c), (d), (e), Revenue and Expenditure Control Act 1968 (82 Stat. 264); sec. 7(c), Act of January 3, 1975 (Pub. L. 93-625, 88 Stat 2115))

PAR. 7. Section 1.6655-1 is amended by revising the first sentence of paragraph (a)(2) to read as follows:

§ 1.6655-1 Addition to the tax in the case of a corporation.

(a) *In general.* * * *

(2) The amount of the addition is determined at the annual rate referred to in the regulations under section 6621 upon the underpayment of any installment of estimated tax for the period from the date such installment is required to be paid until the 15th day of the third month folowing the close of the taxable year, or the date such underpayment is paid, whichever is earlier. * * *

* * * * *

PAR. 8. Section 1.6655-5 is amended by revising paragraph (a)(2) to read as follows:

§ 1.6655-5 Addition to tax on account of excessive adjustment under section 6425.

(a) *In general.* * * *

(2) If the amount of an adjustment under section 6425 is excessive, there shall be added to the tax under chapter 1 for the taxable year an amount determined at the annual rate referred to in the regulations under section 6621 upon the excessive amount from the date on which the credit is allowed or the refund paid to the 15th day of the third month following the close of the taxable year. A refund is paid on the date it is allowed under section 6407.

* * * * *

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

§ 20.6161–1 [Amended]

PAR. 9. Section 20.6161–1 is amended by deleting example (5) of paragraph (a)(1).

PAR. 10. Section 20.6163 is amended by revising section 6163(c) and the historical note to read as follows:

§ 20.6163 Statutory provisions; extension of time for payment of estate tax on value of reversionary or remainder interest in property.

Sec. 6163. *Extension of time for payment of estate tax on value of reversionary or remainder interest in property.* * * *

(c) *Cross reference.* For authority of the Secretary or his delegate to require security in the case of such extension, see section 6165.

(Sec. 6163 as amended by sec. 66(b)(1), Technical Amendments Act 1958 (72 Stat. 1658); sec. 240(a), Revenue Act 1964 (78 Stat. 129); sec. 7(d)(1), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PAR. 11. Section 20.6163–1 is amended by revising the first sentence of paragraph (d) to read as follows:

§ 20.6163–1 Extension of time for payment of estate tax on value of reversionary or remainder interest in property.

* * * * *

(d) For provisions requiring the payment of interest during the period of the extension occurring before July 1, 1975, see section 6601(b) prior to its amendment by section 7(d)(1) of the Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115). * * *

* * * * *

PAR. 12. Section 20.6166 is amended by revising sections 6166 (g) and (k) and the historical note to read as follows:

§ 20.6166 Statutory provisions; extension of time for payment of estate tax where estate consists largely of interest in closely held business.

Sec. 6166. *Extension of time for payment of estate tax where estate consists largely of interest in closely held business.* * * *

(g) *Time for payment of interest.* If the time for payment of any amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually at the same time as, and as a part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Secretary or his delegate.

* * * * *

(k) *Cross references*—(1) *Security.* For authority of the Secretary or his delegate to require security in the case of an extension under this section, see section 6165.

(2) *Period of limitation.* For extension of the period of limitation in the case of an extension under this section, see section 6503 (d).

(Sec. 6166 as added by sec. 206(a) Small Business Tax Revision Act 1958 (72 Stat. 1681); as amended by sec. 7(d)(2), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PAR. 13. Section 20.6166–1 is amended by revising the first sentence of paragraph (f) to read as follows:

§ 20.6166–1 Extension of time for payment of estate tax where estate consists largely of interest in closely held business.

* * * * *

(f) *Time for paying interest.* Under the provisions of section 6601, interest at the annual rate referred to in the regulations under section 6621 shall be paid on the unpaid balance of the estate tax which the executor has elected to pay in installments, and on the unpaid balance of any deficiency prorated to the installments. * * *

* * * * *

PAR. 14. Section 20.6601 is amended to read as follows:

§ 20.6601 Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.

Sec. 6601. *Interest on underpayment, nonpayment, or extensions of time for payment, of tax*—(a) *General rule.* If any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at an annual rate established under section 6621 shall be paid for the period from such last date to the date paid.

* * * * *

(Sec. 6601(a) as amended by sec. 7(a)(2), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

PAR. 15. Section 25.6601 is amended to read as follows:

§ 25.6601 Statutory provisions; interest on underpayment, nonpayment, or extension of time for payment, of tax.

Sec. 6601. *Interest on underpayment, nonpayment, or extensions of time for payment, of tax*—(a) *General rule.* If any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at an annual rate established under section 6621 shall be paid for the period from such last date to the date paid.

* * * * *

(Sec. 6601(a) as amended by sec. 7(a)(2), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PART 301—PROCEDURE AND ADMINISTRATION

PAR. 16. Section 301.6163 is amended by revising section 6163(c) and the historical note to read as follows:

§ 301.6163 Statutory provisions; extension of time for payment of estate tax on value of reversionary or remainder interest in property.

Sec. 6163. *Extension of time for payment of estate tax on value of reversionary or remainder interest in property.* * * *

(c) *Cross reference.* For authority of the Secretary or his delegate to require security in the case of such extension, see section 6165.

(Sec. 6163 as amended by sec. 66(b)(1), Technical Amendments Act 1958 (72 Stat. 1658; sec. 240(a)), Revenue Act 1964 (78 Stat. 129); sec. 7(d)(1), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PAR. 17. Section 301.6166 is amended by revising sections 6166 (g) and (k) and the historical note to read as follows:

§ 301.6166 Statutory provisions; extension of time for payment of estate tax where estate consists largely of interest in closely held business.

Sec. 6166. *Extension of time for payment of estate tax where estate consists largely of interest in closely held business.* * * *

(g) *Time for payment of interest.* If the time for payment of an amount of tax has been extended under this section, interest payable under section 6601 on any unpaid portion of such amount shall be paid annually at the same time as, and as a part of, each installment payment of the tax. Interest, on that part of a deficiency prorated under this section to any installment the date for payment of which has not arrived, for the period before the date fixed for the last installment preceding the assessment of the deficiency, shall be paid upon notice and demand from the Secretary or his delegate.

* * * * *

(k) *Cross references*—(1) *Security.* For authority of the Secretary or his delegate to require security in the case of an extension under this section, see section 6165.

(2) *Period of limitation.* For extension of the period of limitation in the case of an extension under this section, see section 6503 (d).

(Sec. 6166 as added by sec. 206(a), Small Business Tax Revision Act 1958 (72 Stat. 1681); as amended by sec. 7(d)(2), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PAR. 18. Section 301.6332 is amended by revising section 6332(c)(1) and the historical note to read as follows:

§ 301.6332 Statutory provisions; surrender of property subject to levy.

Sec. 6332. *Surrender of property subject to levy.* * * *

(c) *Enforcement of levy*—(1) *Extent of personal liability.* Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary or his delegate, shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at an annual rate established under section 6621 from the date of such levy. Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

* * * * *

(Sec. 6332 as amended by sec. 104(b), Federal Tax Lien Act of 1966 (80 Stat. 1135); sec. 7(a)(2), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PAR. 19. Section 301.6332–1 is amended by revising paragraph (b)(1) to read as follows:

§ 301.6332–1 Surrender of property subject to levy.

* * * * *

(b) *Enforcement of levy*—(1) *Extent of personal liability.* Any person who, upon demand of the district director, fails or refuses to surrender any property or right to property subject to levy is liable under the provisions of section 6332(c)(1) in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes for the collection of which the levy has been made, together with costs and interest on such sum from the date of the levy at the annual rate referred to in the regulations under section 6621. Any amount, other than costs, recovered under section 6332(c)(1) shall be credited against the tax liability for the collection of which the levy was made.

* * * * *

PAR. 20. Section 301.6504 is amended by revising section 6504(15) and the historical note to read as follows:

§ 301.6504 Statutory provisions; cross references.

Sec. 6504. *Cross references.*

* * * * *

(15) Assessment and collection of interest, see section 6601(g).

(Sec. 6504 as amended by sec. 4(d), Act of Apr. 2, 1956 (Pub. L. 466, 84th Cong., 70 Stat. 91); sec. 208(e)(5), Highway Rev. Act 1956 (70 Stat. 397); sec. 84(b), Technical Amendments Act 1958 (72 Stat. 1664); sec. 112(d), Rev. Act 1964 (78 Stat. 24); sec. 213(c), Tax Reform Act 1969 (83 Stat. 572); sec. 101(d)(2), Excise, Estate, and Gift Tax Adjustment Act 1970 (84 Stat. 1837); sec. 7(d)(4), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PAR. 21. Section 301.6601 is amended by deleting sections 6601 (b) and (j), by redesignating sections 6601 (c), (d), (e), (f), (g), (h), (i), (k), and (l) as sections 6601 (b), (c), (d), (e), (f), (g), (h), (i), and (j) respectively, and by revising section 6601(a) and the historical note to read as follows:

§ 301.6601 Statutory provisions; interest on underpayment, nonpayment, or extensions of time for payment, of tax.

Sec. 6601. *Interest on underpayment, nonpayment, or extensions of time for payment, of tax*—(a) *General rule.* If any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at an annual rate established under section 6621 shall be paid for the period from such last date to the date paid.

* * * * *

(Sec. 6601 as amended by secs. 66(c), 83(a)(1), 84(a), Technical Amendments Act 1958 (72 Stat. 1658, 1663, 1664); sec. 206(e), Small Business Tax Revision Act 1958 (72 Stat. 1685); sec. 203(c)(2), Federal-Aid Highway Act 1961 (75 Stat. 126); sec. 2(e)(3), Rev. Act 1962 (76 Stat. 972); sec. 3(d), Act of Sept. 2, 1964 (Pub. L. 88–571, 78 Stat. 857); sec. 1(f), Act of Apr. 8, 1966 (Pub. L. 89–384, 80 Stat. 104); sec. 2(e), Act of Dec. 27, 1967 (Pub. L. 90–225, 81 Stat. 731); sec. 2(e), Act of Aug. 7, 1969 (Pub. L. 91–53, 83 Stat. 92); sec. 512(e)(3), Tax Reform Act 1969 (83 Stat. 641); sec. 601(d)(3), Rev. Act 1971 (85 Stat. 558); sec. 7(a)(2), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PAR. 22. Section 301.6601–1 is amended by revising paragraph (a), so much of paragraph (b) as precedes Example (1) of paragraph (b)(1), paragraph (c)(1), the last sentence of paragraph (c)(2)(i), paragraphs (e) (1) and (2), and by deleting paragraph (b)(2). The amended provisions read as follows:

§ 301.6601–1 Interest on underpayments.

(a) *General rule.* (1) Interest at the annual rate referred to in the regulations under section 6621 shall be paid on any unpaid amount of tax from the last date prescribed for payment of the tax (determined without regard to any extension of time for payment) to the date on which payment is received.

(2) For provisions requiring the payment of interest during the period occurring before July 1, 1975, see section 6601(a) prior to its amendment by section 7 of the Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115).

(b) *Satisfaction by credits made after December 31, 1957*—(1) *In general.* If any portion of a tax is satisfied by the credit of an overpayment after December 31, 1957, interest shall not be imposed under section 6601 on such portion of the tax for any period during which interest on the overpayment would have been allowable if the overpayment had been refunded.

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

* * * * *

(c) *Last date prescribed for payment.* (1) In determining the last date prescribed for payment, any extension of time granted for payment of tax (including any postponement elected under section 6163(a)) shall be disregarded. The granting of an extension of time for the payment of tax does not relieve the taxpayer from liability for the payment of interest thereon during the period of the extension. Thus, except as provided in paragraph (b) of this section, interest at the annual rate referred to in the regulations under section 6621 is payable on any unpaid portion of the tax for the period during which such portion remains unpaid by reason of an extension of time for the payment thereof.

(2) * * *

(i) * * * But see section 6601(e)(4).

* * * * *

(e) *Income tax reduced by carryback.* (1) The carryback of a net operating loss, net capital loss, investment credit, or a work incentive program (WIN) credit shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the last day of the taxable year in which the loss or credit arises. For example, if the carryback of a net operating loss, a net capital loss, an investment credit, or a WIN credit to a prior taxable period eliminates or reduces a deficiency in income tax for that period, the full amount of the deficiency will nevertheless bear interest at the annual rate referred to in the regulations under section 6621 from the last date prescribed for payment of such tax until the last day of the taxable year in which the loss or credit arose. Interest will continue to run beyond such last day on any portion of the deficiency which is not eliminated by the carryback. With respect to any portion of an investment credit carryback or a WIN credit carryback from a taxable year attributable to a net operating loss carryback or a capital loss carryback from a subsequent taxable year, such investment credit carryback or WIN credit carryback shall not affect the computation of interest on any income tax for the period commencing with the last day prescribed for the payment of such tax and ending with the last day of such subsequent taxable year.

(2) Where an extension of time for payment of income tax has been granted under section 6164 to a corporation expecting a net operating loss carryback or a net capital loss carryback, interest is payable at the annual rate established under section 6621 on the amount of such unpaid tax from the last date prescribed for payment thereof without regard to such extension.

* * * * *

PAR. 23. Section 301.6602 is amended to read as follows:

§ 301.6602 Statutory provisions; interest on erroneous refund recoverable by suit.

Sec. 6602. *Interest on erroneous refund recoverable by suit.* Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by suit pursuant to section 7405, shall bear interest at an annual rate established under section 6621 from the date of the payment of the refund.

(Sec. 6602 as amended by sec. 7(a)(2), Act of Jan. 3, 1975 (Pub. L. 93–625, 88 Stat. 2115))

PAR. 24. Section 301.6602–1 is amended to read as follows:

§ 301.6602–1 Interest on erroneous refund recoverable by suit.

Any portion of an internal revenue tax (or any interest, assessable penalty, additional amount, or addition to tax) which has been erroneously refunded, and which is recoverable by a civil action pursuant to section 7405, shall bear interest at the annual rate referred to in the regulations under section 6621 from the date of the payment of the refund.

PAR. 25. Section 301.6611 is amended by revising section 6611(a) and the historical note to read as follows:

§ 301.6611 Statutory provisions; interest on overpayments.

Sec. 6611. *Interest on overpayments*—(a) *Rate.* Interest shall be allowed and paid upon

any overpayment in respect of any internal revenue tax at an annual rate established under section 6621.

* * * * *

(Sec. 6611 as amended by secs. 42(b) and 83 (b) and (c), Technical Amendments Act 1958 (72 Stat. 1640, 1644); sec. 2(e)(4), Rev. Act. 1962 (76 Stat. 972); sec. 3(e), Act of Sept. 2, 1964 (Pub. L. 88-571, 78 Stat. 858); sec. 1(a), Act of Nov. 2, 1966 (Pub. L. 89-721, 80 Stat. 1150); sec. 2(f), Act of Dec. 27, 1967 (Pub. L. 90-225, 81 Stat. 732); sec. 512(e)(4), Tax Reform Act 1969 (83 Stat. 641); sec. 601 (d)(4), Rev. Act 1971 (85 Stat. 559); sec. 7 (a)(2), Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115))

PAR. 26. Section 301.6611-1 is amended by revising paragraph (a) to read as follows:

§ 301.6611-1 Interest on overpayments.

(a) *General rule.* Except as otherwise provided, interest shall be allowed on any overpayment of any tax at the annual rate referred to in the regulations under section 6621 from the date of overpayment of the tax.

* * * * *

PAR. 27. The following is inserted immediately after § 301.6612.

DETERMINATION OF INTEREST RATE

§ 301.6621 Statutory provisions; determination of interest rate.

SEC. 6621. *Determination of rate of interest*—(a) *In general.* The rate of interest under sections 6601(a), 6602, 6611(a), 6332(c)(1), and 7426(g) of this title, and under section 2411(a) of title 28 is 9 percent per annum, or such adjusted rate as is established by the Secretary or his delegate under subsection (b).

(b) *Adjustment of interest rate.* The Secretary or his delegate shall establish an adjusted rate of interest for the purpose of subsection (a) not later than October 15 of any year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, is at least a full percentage point more or less than the interest rate which is then in effect. Any such adjusted rate of interest shall be equal to the adjusted prime rate charged by banks, rounded to the nearest full percent, and shall become effective on February 1 of the immediately succeeding year. An adjustment provided for under this subsection may not be made prior to the expiration of 23 months following the date of any preceding adjustment under this subsection which changes the rate of interest.

(c) *Definition of prime rate.* For purposes of subsection (b), the term "adjusted prime rate charged by banks" means 90 percent of the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System.

(Sec. 6621 as added by sec. 7(a)(1), Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115))

§ 301.6621-1 Interest rate.

(a) *In general.* For purposes of sections 6601(a), 6602, 6611(a), 6332(c)(1), and 7426(g) and the regulations thereunder, and section 2411(a) of Title 28 of the United States Code, the interest rate under section 6621 shall be—

(1) On amounts outstanding before July 1, 1975, 6 percent per annum (or 4 percent in the case of certain extensions of time for payment of taxes as provided in sections 6601 (b) and (j) prior to amendment by section 7(b) of the Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115), and certain overpayments of the unrelated business income tax as provided in section 514(b)(3)(D), prior to its amendment by such Act).

(2) On amounts outstanding on or after July 1, 1975, 9 percent per annum, or, if an adjusted rate is established by the Commissioner under paragraph (b) of this section, such adjusted rate.

(b) *Adjustment of interest rate*—(1) *In general.* The Commissioner shall establish, not later than October 15 of any year, an adjusted rate of interest which shall become effective on February 1 of the immediately succeeding year. Such adjusted interest rate will equal the adjusted prime rate charged by banks (as defined in paragraph (b)(2) of this section) during September of such year rounded to the nearest full percent. However, no adjustment may be made to the interest rate unless—

(i) The adjusted prime rate charged by banks rounded to the nearest full percent during September of such year is at least a full percent more or less than the interest rate then in effect, and

(ii) Not less than 23 months will have expired between the date of the last previous adjustment in the interest rate pursuant to this paragraph and February 1 of the next succeeding year.

(2) *Definition of adjusted prime rate charged by banks.* For purposes of this section, the adjusted prime rate charged by banks is 90 percent of the average predominant prime rate quoted by banks to large businesses as determined by the Board of Governors of the Federal Reserve System.

(c) *Applicability of interest rate*—(1) *Computation.* Interest and additions to tax on any amount outstanding on a specific day shall be computed at the rate applicable on such day.

(2) *Addition to tax.* The addition to tax under sections 6654 and 6655 shall be computed at the same rate per annum as the interest rate set forth under paragraph (a) of this section.

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

Example (1). A, an individual, files an income tax return for the calendar year 1974, on April 15, 1975, showing a tax due of $1,000. A pays the $1,000 on September 1, 1975. Pursuant to section 6601(a), interest on the underpayment of $1,000 is computed at the rate of 6 percent per annum from April 15, 1975, to June 30, 1975, a total of 76 days. Interest for 63 days, from June 30, 1975, to September 1, 1975, shall be computed at the rate of 9 percent per annum.

Example (2). An executor of an estate is granted, in accordance with section 6161(a)(2)(A), a two-year extension of time for payment of the estate tax shown on the estate tax return, which tax was otherwise due on January 15, 1974. The tax is paid on January 15, 1976. Interest on the underpayment shall be computed at the rate of 4 percent per annum from January 15, 1974, to June 30, 1975, and at the rate of 9 percent per annum from June 30, 1975, to January 15, 1976.

Example (3). X, a corporation, files its 1973 corporate income tax return, on March 15, 1974, and pays the balance of tax due shown thereon. On August 1, 1975, an assessment of a deficiency is made against X with respect to such tax. The deficiency is paid on October 1, 1975. Interest at the rate of 6 percent per annum is due on the deficiency from March 15, 1974, the due date of the return, to June 30, 1975, and at the rate of 9 percent per annum from June 30, 1975, to October 1, 1975.

Example (4). Y, an individual, files an amended individual income tax return, on October 1, 1975, for the refund of an overpayment of income tax Y made on April 15, 1975. Interest is allowed on the overpayment to December 1, 1975. Pursuant to section 6611(a), interest is computed at the rate of 6 percent per annum from April 15, 1975, the date of overpayment, to June 30, 1975. Interest from June 30, 1975 to December 1, 1975 shall be computed at the rate of 9 percent per annum.

Example (5). A, an individual, is liable for an addition to tax under section 6654 for the underpayment of estimated tax from April 15, 1975 until January 15, 1976. The addition to tax shall be computed at the annual rate of 6 percent per annum from April 15, 1975 to June 30, 1975 and at the annual rate of 9 percent per annum from June 30, 1975 to January 15, 1976.

PAR. 28. Section 301.6863-1 is amended by revising the last sentence of paragraph (b) to read as follows:

§ 301.6863-1 Stay of collection of jeopardy assessments; bond to stay collection.

* * * * *

(b) *Additional conditions applicable to income, estate, and gift tax assessments.* * * * If the bond is given before the taxpayer has filed his petition with the Tax Court, it must contain a further condition that if a petition is not filed before the expiration of the period provided in section 6213(a) for the filing of such petition the amount stayed by the bond will be paid upon notice and demand at any time after the expiration of such period, together with interest thereon at the annual rate referred to in the regulations under section 6621 from the date of the jeopardy notice and demand to the date of the notice and demand made after the expiration of the period for filing petition with the Tax Court.

PAR. 29. Section 301.7426 is amended by revising so much of section 7426(g) as proceeds section 7426(g)(1), and the historical note to read as follows:

§ 301.7426 Statutory provisions; civil actions by persons other than taxpayers.

SEC. 7426. *Civil actions by persons other than taxpayers.* * * *

(g) *Interest.* Interest shall be allowed at an annual rate established under section 6621—

* * * * *

(Sec. 7426 as added by sec. 110(a), Federal Tax Lien Act 1966 (80 Stat. 1142); as amended by sec. 7(a)(2), Act of Jan. 3, 1975 (Pub. L. 93-625, 88 Stat. 2115))

[FR Doc.75-28490 Filed 10-21-75;8:45 am]

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

Temporary Regulations Relating to Qualified Joint and Survivor Annuities, Treasury Decision 7379; Correction

On Friday, October 3, 1975, Treasury decision 7379 was published in the FEDERAL REGISTER (40 FR 45810). The following corrections are made to the temporary regulations:

(1) In line 6 of subparagraph (2) of § 11.401(a)-11(e) (page 45812), the reference to (d)(2) should be redesignated "(d)(3)".

(2) In line 3 of paragraph (f) of § 11.401(a)-11 (page 45812), the reference to (d)(2) should be redesignated "(d)(3)".

(3) In line 8 of paragraph (f) § 11.401(a)-11 (page 45812), the reference to (d)(2) should be redesignated "(d)(3)".

ROBERT A. BLEY,
Acting Director,
Legislation and Regulations Division.

[FR Doc.75-28491 Filed 10-21-75;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER 1—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 75-098]

PART 2—GENERAL DUTIES AND JURISDICTION

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Jurisdiction and Navigable Waters

These amendments delete superfluous and misleading material and update definitions of jurisdictional terms used by the Coast Guard under Part 2 and Part 100 of Title 33, Code of Federal Regulations.

Sections 2.01-1 and 2.01-5 have been deleted to eliminate any reference to Coast Guard statutory functions and responsibilities, since the new subpart 2 will only concern Coast Guard jurisdiction.

Section 2.01-10 has been deleted. All regulations relating to civil penalty procedures are now found in 33 CFR Subpart 1.07.

Subpart 2.05 has been deleted in its entirety, since it merely repeated statutory provisions. The Coast Guard's functions and powers greatly exceed those listed in subpart 2.05, making that subpart misleading.

Subpart 2.10 is replaced by new subpart 2.05. Subpart 2.05 now includes updated definitions of jurisdictional terms, as currently utilized by the Coast Guard. The definition of "State waters" has been deleted, since the statute utilizing that term has been repealed.

Subpart 2.15 has been deleted and replaced by new subpart 2.10. The procedures for making jurisdictional decisions respecting navigable waters of the United States and waters subject to the jurisdiction of the United States will be set forth in a detailed internal agency instruction, which will be available to the public in accordance with paragraph (b) of § 1.10-5 of this chapter. A list of jurisdictional decisions will be available in the district office whose area includes the waters in question, in accordance with new subpart 2.10.

Subpart 2.20 has been deleted. Section 2.20-1 referred to lists which are being deleted by this amendment; these lists will now be maintained in the district offices in accordance with subpart 2.10. The material in § 2.20-5 is either included in new § 2.05-30 or deleted as being merely repetitive of statutes.

Subparts 2.21 through 2.99 have been deleted. These subparts listed specific determinations, by the Commandant, that certain waters were or were not navigable waters of the United States, for the purpose of Coast Guard jurisdiction. These lists served no public or agency purpose and were misleading, in that Coast Guard jurisdictional decisions, other than Commandant's determinations, did not appear in the regulations. The Coast Guard processes over 200 jurisdictional decisions annually, only a small number of which are made by the Commandant. Publication of all these decisions in the Code of Federal Regulations and the FEDERAL REGISTER would be an unwarranted and costly administrative exercise.

Public access to this material will be maintained through district offices, in accordance with new subpart 2.10. By making information available through the district offices, the Coast Guard will be better able to provide the public with accurate, up to date information than that which was possible under the former Code of Federal Regulations publication system, since the Code of Federal Regulations lists were only reprinted annually.

Section 100.05(b) of Part 100 has been deleted in conformance with the changes made in Part 2. The definition of "navigable waters of the United States" is now found in § 2.05-25.

Since these amendments concern only general statements of policy, interpretations, and rules of agency procedure, they are exempt from the notice requirements in 5 U.S.C. 553(b).

In consideration of the foregoing, 33 CFR Part 2 and Part 100 are amended as follows:

The heading and the text of Part 2 are revised as follows:

PART 2—JURISDICTION

Subpart 2.01—Purpose

Sec.
2.01-1 Purpose.

Subpart 2.05—Definitions of Jurisdictional Terms

2.05-1 High seas.
2.05-5 Territorial seas.
2.05-10 Territorial sea baseline.
2.05-15 Contiguous zone.
2.05-20 Internal waters and inland waters.
2.05-25 Navigable waters of the United States; Navigable Waters; Territorial Waters.
2.05-30 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.

Subpart 2.10—Availability of Jurisdictional Decisions

2.10-1 Maintenance of decisions.
2.10-5 Availability of lists and charts.
2.10-10 Decisions subject to change or modification.

Subpart 2.01—Purpose

§ 2.01-1 Purpose.

The purpose of this part is to inform the public of the definitions which the Coast Guard uses to examine waters to determine whether the Coast Guard has jurisdiction on those waters under particular U.S. laws.

Subpart 2.05—Definitions of Jurisdictional Terms

§ 2.05-1 High seas.

(a) Except as provided in paragraphs (b) and (c) of this section, "high seas" means all waters which are neither territorial seas nor internal waters of the United States or of any foreign country.[1]

(b) "High seas", as used in 18 U.S.C. 7(1), means the Great Lakes and waters seaward of the low water line along the coast, except waters within harbors or narrow coastal indentations enclosed by promontories.[1]

(c) "High seas", as used in section 2 of the Act of February 19, 1895, as amended, 33 U.S.C. 151, and all laws referring thereto, means the waters seaward of the lines described in Part 82 of this chapter.

§ 2.05-5 Territorial seas.

(a) With respect to the United States, "territorial seas" means the waters within the belt, 3 nautical miles wide, that is adjacent to its coast and seaward of the territorial sea baseline.

(b) With respect to any foreign country, "territorial seas" means the waters within the belt that is adjacent to its

[1] It should be noted that under 14 U.S.C. 89 the Coast Guard is authorized to enforce the laws of the United States upon the "high seas" and waters over which the United States has jurisdiction. Certain of the criminal laws of the United States are based on its special maritime and territorial jurisdiction, one of whose components is the "high seas", as defined in paragraph (b). However, this definition of "high seas" does not apply to the use of "high seas" found in 14 U.S.C. 89, to which the definition in paragraph (a) applies. A clear distinction should be maintained between the Coast Guard's authority under 14 U.S.C. 89 and the jurisdictional base of the criminal laws which apply to the special maritime and territorial jurisdiction. For example, while assault (18 U.S.C. 113) committed seaward of the territorial sea could be committed on the "high seas" for both purposes, an assault committed within the territorial sea could be committed on the "high seas" to bring it within the special maritime and territorial jurisdiction and at the same time be committed on waters over which the United States has jurisdiction (not the "high seas") for purposes of the Coast Guard's authority to undertake enforcement action.

coast and whose breadth and baseline are recognized by the United States.

§ 2.05–10 Territorial sea baseline.

"Territorial Sea Baseline" means the delimitation of the shoreward extent of the territorial seas of the United States drawn in accordance with principles, as recognized by the United States, of the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606. Charts depicting the territorial sea baseline are available for examination in accordance with § 1.10–5(b) of this chapter.

§ 2.05–15 Contiguous zone.

"Contiguous Zone" means the belt of high seas, 9 nautical miles wide, that is adjacent to and seaward of the territorial seas of the United States and that was declared to exist in Department of State Public Notice 358 of June 1, 1972, 37 FR 11906.

§ 2.05–20 Internal waters and inland waters.

(a) "Internal waters" and, except as provided in paragraph (b) of this section, "inland waters" mean:

(1) With respect to the United States, the waters shoreward of the territorial sea baseline.

(2) With respect to any foreign country, the waters shoreward of the baseline of its territorial sea, as recognized by the United States.

(b) "Inland waters", as used in 33 U.S.C. Chapter 3, means the waters shoreward of the lines described in Part 82 of this chapter, except the Great Lakes and their connecting and tributary waters as far east as Montreal, the waters of the Mississippi River between its source and the Huey P. Long Bridge and all of its tributaries emptying thereinto and their tributaries, that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North.

§ 2.05–25 Navigable waters of the United States; Navigable Waters; Territorial Waters.[2]

(a) Except as provided in paragraph (b) of this section, "navigable waters of the United States," "navigable waters," and "territorial waters" mean, except where Congress has designated them not to be navigable waters of the United States:

(1) Territorial seas of the United States;

(2) Internal waters of the United States that are subject to tidal influence; and

(3) Internal waters of the United States not subject to tidal influence that:

(i) Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or

(ii) A governmental or non-governmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with other waters, highways for substantial interstate or foreign commerce.

(b) "Navigable waters of the United States" and "navigable waters," as used in sections 311 and 312 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1321 and 1322, mean:

(1) Navigable waters of the United States as defined in paragraph (a) of this section and all waters within the United States tributary thereto; and

(2) Other waters over which the Federal Government may exercise Constitutional authority.

§ 2.05–30 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.[2]

"Waters subject to the jurisdiction of the United States" and "waters over which the United States has jurisdiction" mean:

(a) Navigable waters of the United States;

(b) Other waters that are located on lands, owned by the United States, with respect to which jurisdiction has been accepted in accordance with 33 U.S.C. 733 by the authorized federal officer having custody, control, or other authority over them;

(c) Other waters that are located on lands, owned by the United States, with respect to which the United States retains concurrent or exclusive jurisdiction from the date that the State in which the lands are located entered the union; and

(d) waters within the territories and possessions of the United States and the Trust Territories of the Pacific Islands.[2]

Subpart 2.10—Availability of Jurisdictional Decisions

§ 2.10–1 Maintenance of decisions.

Each Coast Guard district maintains:

(a) A list of waters within the district which the Coast Guard has decided to be navigable waters of the United States for the purposes of its jurisdiction, and

(b) Charts reflecting Coast Guard decisions as to the location of the territorial sea baseline for the purposes of Coast Guard jurisdiction, if the district includes portions of the territorial seas.

§ 2.10–5 Availability of lists and charts.

The lists and charts referred to in § 2.10–1 of this chapter are available to the public and may be inspected or obtained in accordance with § 1.10–5(b) of this chapter.

[2] In various laws administered and enforced by the Coast Guard, the terms "State" and "United States" are defined to include some or all of the territories and possessions of the United States. The definitions in sections 2.05–25 and 2.05–30 should be considered as supplementary to these statutory definitions and not as interpretive of them.

§ 2.10–10 Decisions subject to change or modification.

The decisions referred to in § 2.10–1 of this subpart are subject to change or modification. Inquiries concerning the status of specific waters, for the purposes of Coast Guard jurisdiction, should be directed to the District Commander of the district in which the waters are located.

2. In Part 100, § 100.05(b) is deleted and reserved.

§ 100.05 Definitions of terms used in this part.

* * * * *

(b) [Reserved]

* * * * *

(14 U.S.C. 633; 80 Stat. 931 (49 U.S.C. 1655 (b)); 49 CFR 1.4(b), 1.46(b).)

Effective date: These amendments will become effective on November 24, 1975.

Dated: October 14, 1975.

O. W. Siler,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.75-28428 Filed 10-21-75;8:45 am]

[CGD 73-162]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Cheesequake Creek, N.J.

This amendment changes the regulations for the New York and Long Branch railroad bridge across Cheesequake Creek to allow closed periods during the late fall, winter, and early spring months when vessel traffic is light. This amendment was circulated as a public notice dated August 15, 1973, by the Commander, Third Coast Guard District, and was published in the Federal Register as a notice of proposed rule making (CGD 73-162p) on August 10, 1973, (38 FR 21650). Seventy comments were received which generally objected to the proposed change. The Coast Guard then held meetings with the railroad and marine interests. As a result of these meetings, the marine interests and the railroad agreed to closed periods that would be less restrictive to navigation. The Coast Guard will continue to monitor this matter and if additional changes in these regulations are indicated, they may be made at that time.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new subparagraph (6) to paragraph (j) of § 117.215 to read as follows:

§ 117.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries, and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.

* * * * *

(j) * * *

(6) New York and Long Branch railroad bridge across Cheesequake Creek.

The draw shall open on signal except at the following times the draw shall open on signal only if at least four hours notice is given:

(i) 6 p.m. to 6 a.m. from January 1 through March 31.

(ii) 10 p.m. to 6 a.m. Monday through Thursday and midnight Sunday to 6 a.m. Monday from April 1 through April 30 and November 1 through November 30.

(iii) 10 p.m. to 6 a.m. from December 1 through December 31.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655 (g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4))

Effective date. This revision shall become effective on November 24, 1975.

Dated: October 15, 1975.

R. I. PRICE,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.75-28429 Filed 10-21-75;8:45 am]

[CGD 74-32]

PART 157—RULES AND REGULATIONS FOR PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN DOMESTIC TRADE

Tank Vessels Carrying Oil in Domestic Trade

Correction

In FR Doc. 75-27230 appearing at page 48280 of the issue for Tuesday, October 14, 1975, make the following changes:

1. In the second line of § 157.09(b), page 48284, "voltage" should read "voyage".

2. In paragraph 3, *Hypothetical Outflow of Oil*, to Appendix A, page 48286, in the third line the symbol for bottom damage, now reading "O_3", should read "O_4".

3. In the formulas for K_1, Z_1, and S_1, appearing in Appendix A, page 48286, the term from which the fraction is subtracted, which now in each case reads "*1*", should read "*1.*"

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 438-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Florida: Approval of Plan Revisions

On March 27, 1975 (40 FR 13521), the Agency announced the receipt of two revisions in the Florida plan. These consisted of changes in the plan's limits on sulfur dioxide emissions from existing sulfur recovery plants and sulfuric acid plants. They were adopted by the State after notice and public hearing in conformity with 40 CFR 51.4 and were submitted for the Agency's approval on February 12, 1975, along with other plan revisions. Copies of the two revisions were made available for public inspection at the Agency's Region IV headquarters in Atlanta, Georgia and at the offices of the Florida Department of Environmental Regulation (formerly Department of Pollution Control) throughout the State. Written comments were solicited from the public, but none were received.

Under the Florida implementation plan's original regulations for sulfur recovery plants, existing facilities were allowed to emit no more than 0.004 pounds of SO_2 for each pound of sulfur recovered from an oil well; this limit, to be achieved by July 1, 1975, corresponded to a sulfur recovery efficiency of 99.8 percent. Under the newly adopted regulation, existing plants are subject to an immediately effective limit of 0.08 pounds of sulfur dioxide per pound of sulfur recovered; this corresponds to a recovery efficiency of 96 percent. All of the sources affected by the revised regulation are now operating in the Jay oil field (Santa Rosa County).

The second of these revisions resulted from a petition of the Occidental Chemical Company, which operates two sulfuric acid plants in White Springs (Hamilton County). Under the regulations of the approved Florida plan, existing H_2SO_4 plants are required to achieve, by July 1, 1975, an emission limit of 10 pounds of SO_2 per ton of 100 percent sulfuric acid produced. This limit was based on the degree of SO_2 emission reduction needed to attain standards in the model County used in developing the plan's original control strategy for sulfur dioxide, that is, in Hillsborough County, site of the highest measured concentrations of the pollutant. The State now takes the position that this degree of control is not needed in Hamilton County, where there is only one other significant source of SO_2 emissions, and where the original emission limit might produce only a negligible improvement in air quality if achieved. Accordingly, the emission limit for sulfuric acid plants in the Florida portion of the Jacksonville, Florida-Brunswick, Georgia Interstate Air Quality Control Region is being relaxed to 29#SO_2/ton 100 percent H_2SO_4. (The plants of Occidental Chemical Company presently emit about 35#/ton, as opposed to 42#/ton emitted in January, 1972.

The Agency has thoroughly reviewed these plan revisions in the light of the revised sulfur dioxide control strategy and supporting air quality data and mathematical modeling results submitted with them. A written summary of the findings of this review may be examined at the following locations:

Air & Hazardous Materials Division, Region IV, Environmental Protection Agency, 1421 Peachtree Street NE., Atlanta, Georgia 30309.

Freedom of Information Center, Environmental Protection Agency, 232 Waterside Mall West Tower, 401 M Street SW., Washington, D.C. 20460.

The Administrator has determined that the two Florida plan revisions described above meet the requirements of section 110 of the Clean Air Act and the implementing regulations of 40 CFR Part 51. Accordingly, they are hereby approved.

"This action is effective (upon date of publication)." The Administrator finds that good cause exists for making his approval immediately effective since these revisions are already in effect under Florida law, and the Agency's action places no additional burden on affected facilities.

(Section 110(a) of the Clean Air Act (42 U.S.C. 1957c-5(a)))

Dated: October 14, 1975.

JOHN QUARLES,
Acting Administrator.

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

In § 52.520, paragraph (c) is amended to read as follows:

§ 52.520 Identification of plan.

* * * * *

(c) Supplemental information was submitted by the Department of Pollution Control on April 10 and May 5, 1972, on June 1, August 6, and September 25, 1973, on February 26, May 30, September 25, and November 21, 1974, and on January 9, February 12 (revised limits on SO_2 emissions from sulfur recovery and sulfuric acid plants), March 31, April 9 and 15, 1975.

[FR Doc.75-28366 Filed 10-21-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

[FPMR Amendment A-22]

PART 101-6—MISCELLANEOUS REGULATIONS

Acquisition of Real Property

The Office of Management and Budget (OMB) has revised OMB Circular No. A-11. Federal agencies are no longer required to obtain a statement from the General Services Administration concerning the availability of other Federal property when their budget estimates include funds of more than $100,000 for the acquisition of real and related personal property. Therefore, Subpart 101-6.3 is deleted.

The table of contents for Part 101-6 is amended to delete Subpart 101-6.3 and to reserve the subpart as follows:

Subparts 101-6.3—101-6.48 [Reserved]

Part 101-6 is amended to delete the provisions of Subpart 101-6.3 and to reserve the subpart as follows:

Subparts 101-6.3—101-6.48 [Reserved]

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective on October 22, 1975.

Dated: October 10, 1975.

ARTHUR F. SIMPSON,
Administrator of General Services.

[FR Doc.75-28373 Filed 10-21-75;8:45 am]

[FPMR Amendment E-171]

PART 101–32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Use of Excess ADPE on Cost-Reimbursement Type Contracts and Project Grants

This amendment clarifies, redefines, redesignates, updates, and provides new policies on the use of excess automatic data processing equipment (ADPE) by cost-reimbursement type contractors and project grantees. These policies conform in principle with policies prescribed in 41 CFR 101–43.320.

The table of contents for Part 101–32 is amended by adding the following entries:

101–32.301–9a	Mailing list.
101–32.301–17	Condition codes.
101–32.310	Use of excess ADPE on cost-reimbursement type contracts and project grants.

Subpart 101–32.3—Reutilization of Automatic Data Processing Equipment and Supplies

1. Section 101–32.301–9 is revised to read as follows:

§ 101–32.301–9 Availability list.

ADPE "Availability List" is a listing of excess and exchange/sale ADPE available for reutilization by Federal agencies.

2. Section 101–32.301–9a and 101–32.301–17 are added as follows:

§ 101–32.301–9a Mailing list.

The "mailing list" is an automated address list maintained by GSA for dissemination of the ADPE Availability List. Federal agencies (as defined in § 101–32.301–2) that are eligible for transfer of excess ADPE may request placement on the mailing list.

* * * * *

§ 101–32.301–17 Condition codes.

The following list of meanings of condition codes shall be used to define the condition of all ADPE reported to GSA in accordance with § 101–32.4702:

N–1: New or unused property in excellent condition. Ready for use and identical or interchangeable with new items delivered by a manufacturer or normal source of supply.

N–2: New or unused property in good condition. Does not quite qualify for N–1 (because it is slightly shopworn, soiled, or similar), but its condition does not impair utility.

N–3: New or unused property in fair condition. Soiled, shopworn, rusted, deteriorated, or damaged to the extent that utility is slightly impaired.

N–4: New or unused property so badly broken, soiled, rusted, mildewed, deteriorated, damaged, or broken that its condition is poor and its utility is seriously impaired.

E–1: Used property but repaired or renovated and in excellent condition.

E–2: Used property which has been repaired or renovated and, while still in good usable condition, has become worn from further use and cannot qualify for excellent condition.

E–3: Used property which has been repaired or renovated but has deteriorated since reconditioning and is in only fair condition. Further repairs or renovation is required or expected to be needed in the near future.

E–4: Used property which has been repaired or renovated and is in poor condition from serious deterioration such as from major wear and tear, corrosion, exposure to weather, or mildew.

O–1: Property which has been slightly or moderately used, no repairs are required, and property is still in excellent condition.

O–2: Used property, more worn than O–1 but is still in good condition, with considerable use left before any important repairs would be required.

O–3: Used property which is still in fair condition and usable without repairs; however, is somewhat deteriorated with some parts (or portion) worn enough to require replacement.

O–4: Used property which is still usable without repairs but is in poor condition and is undependable or uneconomical in use. Parts are badly worn and deteriorated.

R–1: Used property, still in excellent condition, but minor repairs are required. Estimated repairs would cost no more than 10 percent of original acquisition cost.

R–2: Used property in good condition but considerable repairs are required. Estimated cost of repairs would be from 11 percent to 25 percent of original acquisition cost.

R–3: Used property, in fair condition, but extensive repairs are required. Estimated repair costs would be from 26 percent to 40 percent of original acquisition cost.

R–4: Used property in poor condition and requiring major repairs. Badly worn, and would still be in doubtful condition or dependability and uneconomical in use if repaired. Estimated repair cost is between 41 percent and 65 percent of original acquisition cost.

X: Salvage. Property having some value in excess of basic material content. Repairs or rehabilitation is estimated to cost more than 65 percent of original acquisition cost.

S: Scrap. Material that has no value except for its basic material content.

3. Sections 101–32.303–1 and 101–32.304 (b) are revised to change the GSA correspondence symbol from CDE to CDP as follows:

§ 101–32.303–1 Designation of agency ADPE point of contact.

Each agency head shall designate an agency ADPE point of contact to promote the maximum reutilization of excess ADPE, to provide proper coordination on an interagency basis, and to ensure that excess ADPE is acquired in accordance with agency plans and program efforts. The name, address, and phone number of this individual shall be submitted promptly after designation to the General Services Administration (CDP), Washington, DC 20405.

§ 101–32.304 Availability list.

* * * * *

(b) Requests for additions, changes, and deletions to the mailing list for the Availability List shall be made to the General Services Administration (CDP), Washington, DC 20405. Agencies sponsoring contractors or grantees, when forwarding requests for distribution of the Availability List to such contractors or grantees, shall include the appropriate grant or contract number.

* * * * *

4. Section 101–32.306 is amended by revising paragraphs (a), (d), and (j) and by adding new paragraph (h–1) as follows:

§ 101–32.306 Requests for transfer of excess ADPE or exchange/sale ADPE.

* * * * *

(a) The SF 122 (illustrated at § 101–32.4901–122) shall provide the name of an agency point of contact and telephone number and shall be signed by an authorized official of the requesting agency when the ADPE is to be used by the agency or by a contractor or grantee of the agency.

* * * * *

(d) The original and four copies of the SF 122 shall be submitted for approval to the General Services Administration (CDP), Washington, DC 20405.

* * * * *

(h–1) When the SF 122 requests shipment of equipment outside of the 48 conterminous States, the requesting agency may be required either to arrange shipment from the holding site or to arrange shipment from a specified point of debarkation within the 48 conterminous States.

(j) When the approved SF 122 indicates the ADPE is to be picked up by the requesting agency, the shipment shall be accomplished within 20 workdays from the time the requesting agency is notified by the holding agency that the shipment is ready. The holding agency shall inform GSA when the ADPE is not picked up within the allotted time.

(j) The holding agency shall ship or deliver the excess ADPE within 20 days after receipt of the SF 122 or receipt of complete shipping instructions as provided in § 101–32.306(g), whichever is later. If for any reason the holding agency is unable to ship or deliver within this established time frame, the holding agency shall promptly inform the requesting agency of the reason for delay and provide a revised shipping or delivery date.

* * * * *

5. Section 101–32.307(a) is revised to read as follows:

§ 101–32.307 Care and handling of excess or exchange/sale ADPE.

(a) The reporting or holding agency shall be responsible for and bear the costs of care and handling of excess or exchange/sale ADPE pending disposition. Only direct costs incurred incident to a transfer (such as packing, loading, and transporting) shall be borne by the requesting agency when billed by the holding agency. Overhead or administrative costs, equipment disconnect charges, and other costs not directly related to and solely resulting from requests for transfer shall not be included. The requesting agency shall be responsible for any movement or temporary storage required subsequent to the date transfer is approved; transportation of ADPE to the requesting agency; and rental costs, if any, for excess leased ADPE over the allowable free rental period in the applicable contract. Any question or controversy regarding responsibility for cost shall be referred for resolution to the General Services

Administration (CDP), Washington, DC 20405. The holding agency is not required to maintain excess leased ADPE in a leased status when the reporting requirements of § 101-32.4702 have been satisfied.

* * * * *

6. Section 101-32.309-2 is revised to change the GSA correspondence symbol from CDE to CXM as follows:

§ 101-32.309-2 Reporting ADP Fund equipment excess.

Ninety calendar days before the anticipated release date of ADP Fund equipment, the leasing agency shall notify the General Services Administration (CXM), Washington, DC 20405, by letter, of its intention to discontinue the lease. An SF 120, Report of Excess Personal Property, clearly marked with the words "ADP Fund" shall be enclosed.

7. Sections 101-32.309-3 and 101-32.309-4(a) are revised to change the GSA correspondence symbol from CDE to CDP as follows:

§ 101-32.309-3 Transfer of ADP Fund equipment.

In followup to a telephone reservation of ADP Fund equipment, the requesting agency shall submit a commitment letter to the General Services Administration (CDP), Washington, DC 20405. This letter shall include the term and the dollar symbol. GSA then will prepare the SF cussed), the agency point of contact (with address and telephone number), the shipping address and instructions, and the applicable agency appropriation symbol. GSA will then prepare the SF 122, Transfer Order, Excess Personal Property, to initiate equipment shipment and will submit the lease agreement and the approved SF 122 to the requesting agency's designated official.

§ 101-32.309-4 Guarantee of ADP Fund equipment.

(a) Agencies participating in the leasing program pay charges for transportation of the equipment to the designated site(s); arrange for and pay the cost of any refurbishment needed to bring the equipment up to maintenance standards; and forward to the General Services Administration (CDP), Washington, DC 20405, a statement of the costs incurred for inspection and the estimate of the cost of refurbishment.

8. Section 101-32.310 is added as follows:

§ 101-32.310 Use of excess ADPE on cost-reimbursement type contracts and project grants.

(a) The use of excess ADPE shall be considered by Federal agencies in their cost-reimbursement type contracts and project grants which are made pursuant to programs established by law and for which funds are appropriated by the Congress. For the purposes of this section, the term "project grants" refers to grants made to specific institutions and organizations for a specific purpose with established costs and termination dates.

(b) The contract or grant shall include adequate safeguards and assurances relative to authorized use, maintenance, and return to Government custody of Government-furnished property.

(c) Excess ADPE may be furnished to a contractor or project grantee in accordance with § 101-32.306, provided a determination is made by the contracting or sponsoring Federal agency that the acquisition will result in a reduction of cost to the Government or in enhancement of the product or the benefit from the contract or grant.

(d) When competing Federal requests are made on an item of excess ADPE, GSA will give the lowest priority to a Federal agency request which vests title to the equipment in the contractor or grantee.

(e) Federal grantor agencies shall make excess ADPE available only to project grantees, with authorization for such grantees to use the property made a part of the grant document. To ensure that all such equipment transferred is for the specific purpose authorized by the grantor agency, all SF 122's submitted to GSA shall be signed by the agency accountable officer; shall affirm that the transfer is requested for use by a project grantee in accordance with this subpart; and shall state the name of the project grantee, the grant number, the scheduled date of grant termination, and the purpose of the transfer.

In addition, Federal grantor agencies shall develop and maintain an effective system for the prevention or detection of situations involving the nonuse, improper use, or the unauthorized disposal or destruction of excess personal property furnished to grantees. This responsibility shall include compliance reviews, field inspections, and other enforcement procedures to monitor such property.

(f) Federal grantor agencies normally shall limit the amount of excess property (in terms of Government acquisition cost) loaned to a grantee to the dollar value of the grant. Any higher percentage of excess property loaned to a grantee must be approved by a level in the Federal agency higher than the project officer administering the grant. Agencies shall consider all factors in determining whether to approve or disapprove transfers to grantees of excess property above the dollar value of the grant. Further limits on the value of excess property, including property available through material grants, may be included in the basic grant documents, provided such limits are justified.

(g) Federal grantor agencies shall include the following information in their grant recordkeeping systems: the number of grantees using excess property; total dollar value of property loaned to all grantees; dollar value of property on loan to each grantee; acquisition cost of loaned excess items for each grant; dollar value of each grant; percentage of acquisition cost of loaned excess property to the dollar value of each grant; and date(s) of grant termination. Where an agency has statutory authority to vest title in the grantee, comparable records shall be maintained, including records which will indicate the dollar value of property vested in any grantee.

(h) The system of accountability for property acquired from excess will be in accordance with contractual and agency procedures. Records will be subject to audit by an internal audit group of the Federal contracting or granting agency. Records of such agencies shall be made available upon request to the General Accounting Office.

(i) Except when specifically authorized by statute to vest title, a Federal agency, upon termination of a contract or grant in whole or in part, shall reassign Government-furnished ADPE, as far as practicable, to other activities, contractors, and/or grantees within that Federal agency. If no reassignment is made, and if the property is not disposed of pursuant to applicable regulations or contract provisions relating to contractor inventory, it shall be reported as excess to GSA in accordance with § 101-32.4702 and held by the contractor or grantee in accordance with § 101-32.308. Agencies shall publish procedures which clearly delineate the obligations of their contractors and grantees with respect to the use and return to Government custody of property acquired from excess sources.

Subpart 101-32.47—Reports

Section 101-32.4702 is amended to read as follows:

§ 101-32.4702 Reporting excess or exchange/sale ADPE.

Excess ADPE or exchange/sale ADPE shall be reported on an original and four copies of SF 120, Report of Excess Personal Property (illustrated at § 101-32.4901-120), and, when necessary, SF 120A, Continuation Sheet (Report of Excess Personal Property). The SF 120 shall be submitted to the General Services Administration (CDP), Washington, DC 20405, by the holding agency at least 90 calendar days before the anticipated release date as determined by the holding agency. This report is exempt from reports control in accordance with § 101-11.1102-1(b). ADPE in the hands of Government contractors may be reported on an appropriate contractor inventory appended to an SF 120 provided the reporting format includes an adequate commercial description and other appropriate data required by § 101-32.4702(a), below.

(a) The SF 120 shall include the appropriate condition code designation as defined in § 101-32.301-17 and shall contain the manufacturer's name, equipment type and model number, and full description of the ADPE to determine whether the ADPE may satisfy another agency's requirement. Since ADPE suppliers have adopted no uniform method of identifying certain ADPE systems, components, features, cables, or other devices such as terminators and junction boxes used with the equipment, the complete nomenclature for such equipment as used by the supplier shall be identified and reported on the SF 120. Parts or de-

vices shall not be removed subsequent to reporting the ADPE to GSA as excess. If any part or device has been removed from the ADPE, a statement identifying those parts or devices shall be made on the SF 120. In addition, the status of each individual component and feature shall be shown to indicate whether it is leased, purchased, or leased with option to purchase. If the equipment is leased or leased with option to purchase, the fair value shall be shown on the SF 120. The fair value is the difference between original acquisition cost and accrued purchase option credits. Government-owned and -leased ADPE shall not be reported on the same SF 120.

* * * * *

(c) The words "Exchange/Sale Property" shall be displayed prominently on the original and four copies of the SF 120 when reporting ADPE that is to be replaced pursuant to exchange/sale provisions of Part 101-46. The acquisition cost and the reimbursement required, which shall not be greater than the cash (sale) or exchange (trade-in) bid that the reporting agency has received for the specific ADPE, shall be shown on the SF 120. If there is any change to a cash or exchange bid subsequent to the submission of an SF 120, a revised SF 120 indicating the new cash or exchange bid shall be promptly submitted to GSA. Agencies will be advised promptly, in writing, of the date the original or revised SF 120 is received by GSA. Such equipment shall not be sold or exchanged prior to written authorization from GSA. The following statement shall be inserted on the SF 120 for exchange/sale property:

A written administrative determination has been or will be made to apply the exchange allowance or proceeds of sale to the acquisition of similar items by other than lease.

* * * * *

Subpart 101–32.49—Illustration of Forms

Sections 101–32.4901–120 (a) and (b) and 101–32.4901–122 are amended to change the GSA correspondence symbol from CDE to CDP.

NOTE.—The forms illustrated in §§ 101–32.4901–120 (a) and (b) and 101–32.4901–122 are filed as part of the original document.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486 (c)).

Effective date. This regulation is effective on October 22, 1975.

Dated: October 10, 1075.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.75-28374 Filed 10-21-75;8:45 am]

[FPMR Amendment G-34]

PART 101–39—INTERAGENCY MOTOR VEHICLE POOLS

PART 101–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

Organizational Titles and Codes and References to Regulations

The regulations in Part 101–39, Interagency Motor Vehicle Pools, and Part 101–40, Transportation and Traffic Management, are changed to update organizational titles and codes and references to other GSA regulations.

Section 101–39.503–6 is revised and the introductory text of § 101–39.503–7 is revised as follows:

§ 101–39.503–6 Supplies of GSA Form 1313.

Agencies may obtain supplies of GSA Form 1313 from the Motor Equipment Services Division of the appropriate GSA regional office.

§ 101–39.503–7 Lost or stolen GSA Form 1313.

In the event a GSA Form 1313 is lost or stolen, the agency issuing the form shall immediately notify the Motor Equipment Services Division of the GSA regional office from which the form was obtained. The notification shall contain:

* * * * *

Sections 101–39.702(b) and 101–39.706 are revised as follows:

§ 101–39.702 Storage.

* * * * *

(b) Whenever interagency motor pool vehicles are stored at other than a designated storage point of an interagency motor pool, the storage cost is the responsibility of the using agency. Prior to the procurement of other than temporary parking accommodations in urban centers (see § 101–18.102), agencies shall determine the availability of Government-owned or -controlled parking space in accordance with the provisions of § 101–17.101–6.

§ 101–39.706 Modification or installation of accessory equipment.

The modification of an interagency motor pool vehicle or the installation of accessory equipment on such a vehicle can be accomplished only when approved by GSA. The request for such modification and installation shall be forwarded to the Motor Equipment Services Division of the appropriate GSA regional office for consideration.

Sections 101–40.101, 101–40.109–2(b), and 101–40.111a) are revised and the introductory text of § 101–40.102 is revised as follows:

§ 101–40.101 Transportation assistance.

Executive agencies without transportation offices or those in need of assistance on transportation matters shall obtain assistance from the GSA Transportation Services Division at the appropriate GSA regional office, except that agencies located in the Washington, D.C. metropolitan area shall obtain such assistance from the General Services Administration (FZ), Washington, DC 20406.

§ 101–40.102 Representation before regulatory bodies.

GSA, in behalf of executive agencies, will, as it deems appropriate, institute formal or informal action, with respect to tariff, rate, or service matters, before Federal and State regulatory bodies. Executive agencies shall submit their requests and recommendations for action before Federal and State regulatory bodies to the General Services Administration (FZ), Washington, DC 20406, or the Transportation Services Division at the appropriate GSA regional office. Agency requests for GSA representation shall be accompanied by detailed supporting data including, where appropriate, such items as the following:

* * * * *

§ 101–40.109–2 Office relocation contracts.

* * * * *

(b) For office relocations in cities where term moving contracts are not available, agencies may obtain their own moving contracts either by formal advertising or by negotiation (41 CFR 1–7.7 and 1–19.7), as appropriate. Agencies may also obtain their own moving contracts for office relocations costing more than $2,500 in cities where term moving contracts are available. Alternatively, upon request of an agency, GSA will enter into a separate moving contract to meet that agency's requirements. However, relocation of offices occupying space which has been assigned by GSA requires prior approval by the Public Buildings Service, GSA, in accordance with the provisions of Subpart 101–17.1, Assignment of Space, and Subpart 101–17.2, Utilization of Space.

* * * * *

§ 101–40.111 Maintenance of tariff files.

(a) The General Services Administration Region 3, Federal Supply Service, Washington, D.C., will maintain the master file of carrier tariffs for all modes of transportation. The other GSA regional offices will maintain tariff files sufficient to meet the normal requirements of the agencies located in their regional areas.

* * * * *

Sections 101–40.301, 101–40.305–2, 101–40.305–3(a), 101–40.305–5, 101–40.306–3 and 101–40.307 are revised as follows:

§ 101–40.301 Rate and routing services.

Upon request, GSA will provide rate and route information and related traffic data to any executive agency. (See § 101–40.101.) Requests for information may be submitted to GSA by means of GSA Form 420, Request for Traffic Data. (See § 101–40.4906–1.) Urgent requests may be made by whatever method is necessary to expedite the request. The data will be furnished by similar means and confirmed by transmittal of a GSA Form 420.

§ 101–40.305–2 Rate analysis required on substantial movements.

When the volume of tonnage to be moved exceeds the limitations imposed by § 101–40.305–3, agencies shall submit to the General Services Administration (FZ), Washington, D.C. 20406, or the Transportation Services Division at the appropriate GSA regional office, complete details of prospective movements for rate analysis to determine whether negotiations shall be initiated. Such data shall be submitted as far in advance of the prospective shipping date as circumstances will permit and shall include all pertinent shipping information, such as the complete description of the com-

modity, packaging, volume, origin, destination, and prospective shipping schedule. (See § 1-19.201.)

§ 101-40.305-3 Negotiation by other executive agencies.

(a) Executive agencies other than GSA are authorized to initiate and conduct negotiations for freight rates and services only when the quantity of property involved is 100 short tons or less. Agencies may be granted authority to conduct negotiations on larger volumes of traffic when it is considered in the best interests of the Government. Requests for such additional authority should be directed to the General Services Administration (FZ), Washington, D.C. 20406, or the Transportation Services Division at the appropriate GSA regional office.

* * * * *

§ 101-40.305-5 Reports of agency negotiations.

Executive agencies shall submit promptly to the General Services Administration (FZ), Washington, DC 20406, or the Transportation Services Division at the appropriate GSA regional office, a complete report of each negotiation after the negotiation is completed. The report shall refer to this § 101-40.305-5 and shall cite the name of the carrier or bureau with which the negotiation was conducted and any tariff change, or shall include a copy of any contract or rate tender resulting from the negotiation. The report shall set forth the quantity and description of the tonnage involved, origin, destination, old and new rates, and other pertinent information. The reports required by this section are exempt from reports control in accordance with § 101-11.1102-1 (b).

§ 101-40.306-3 Distribution.

Six copies (including at least one signed copy) of each rate tender shall be submitted promptly by the agency receiving it to the General Services Administration (FZ), Washington, DC 20406, or the Transportation Services Division at the appropriate GSA regional office; and six copies (including at least one signed copy) shall be submitted promptly to the General Accounting Office, Transportation and Claims Division, Washington, DC 20548.

§ 101-40.307 Tonnage reports.

Each executive agency shall furnish to Each executive agency shall furnish to the General Services Administration (FZ), Washington, DC 20406, monthly reports of outbound shipments on which freight charges are to be paid or allowed by a Government agency, in accordance with the provisions of this § 101-40.307. The monthly reports required by this section are exempt from reports control in accordance with § 101-11.1102-1(b).

Section 101-40.702-3(b) is revised as follows:

§ 101-40.702-3 Preparation of a discrepancy report.

* * * * *

(b) When theft or loss occurs in a shipment of narcotics or related substances, a copy of the discrepancy report shall be forwarded to the nearest regional office of the Drug Enforcement Administration, Department of Justice (21 CFR 301.74(c)).

* * * * *

§ 101-40.4906-1 [Amended]

Section 101-40.4906-1 is amended to illustrate the August 1972 edition of GSA Form 420, Request for Traffic Data.

NOTE.—The form illustrated in § 101-40.4906-1 is filed as part of the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective October 22, 1975.

Dated: October 9, 1975.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.75-28375 Filed 10-21-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20480]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (*St. Helena/Santa Rosa, California;* Kalkaska, Michigan; Newberry, Michigan; *Tarkio-Rock Port, Missouri; Surfside Beach, South Carolina; Trenton, Tennessee.*), Docket No. 20480, *RM-2515, RM-2516,* RM-2519, *RM-2525,* RM-2513, *RM-2526.*

1. The Commission has before it the *Notice of Proposed Rule Making* adopted May 9, 1975 (40 FR 22002), inviting comments on a number of changes in the FM Table of Assignments (Section 73.202(b) of the Rules). All comments and data filed in response to the *Notice* were considered in making the following determinations. There were no opposing comments. Population figures were taken from the 1970 U.S. Census. The following decision disposes of all subject petitions except RM-2513 (Newberry, Michigan) and RM-2519 (Kalkaska, Michigan) which will be taken up at a later date.

2. The pertinent proposals and petitioners were:

RM-2515 Substitute Channel 269A for 257A in Santa Rosa, California, and 257A for 269A at St. Helena, California. (Young Radio, Inc.)
RM-2516 Channel 228A to Tarkio, Missouri. (Ashdown Broadcasters, Inc.)
RM-2525 Channel 276A to Surfside Beach, South Carolina. (Theodore J. Gray)
RM-2526 Channel 249A to Trenton, Tennessee[1] (Trentone, Incorporated).

In all except one of the above cases (St. Helena/Santa Rosa, California (RM-2515), which will be discussed below, interested parties seek the assignment of a first FM channel (Class A) to a community without requiring any other changes in the FM Table of Assignments, and each assignment can be made in conformance with the Commission's minimum mileage separation rule. Each petitioner stated its intention to apply for the channel, if assigned, and to build a station, if authorized. In the *Notice of Proposed Rule Making* in this proceeding we set out economic and other information pertaining to the need for a first FM assignment in each of the communities. We shall, therefore, not repeat it here. The communities range in size from 1,329 persons for Surfside Beach, South Carolina, to 4,226 persons for Trenton, Tennessee. Neither Tarkio, Missouri, Surfside Beach, South Carolina nor Trenton, Tennessee, have local broadcast facilities. None of the communities is a part of an urbanized area (1970 U.S. Census) and each appears to warrant the proposed assignment. We are of the view that adoption of each proposal would serve the public interest.

3. *St. Helena/Santa Rosa, California (RM-2515).* Young Radio, Inc., permittee of Station KVYN(FM) (Channel 269A, St. Helena, California), requests an exchange of its channel assignment at St. Helena with that of Santa Rosa. Petitioner alleges that the change will provide a means by which to significantly improve the coverage for its service area in Napa Valley. Its engineering data show that the channel exchange will not adversely affect the Santa Rosa facility, KVRE-FM (Channel 257A). A letter from the President of KVRE, Inc., states that the corporation has no objections to the exchange and that petitioner has agreed to reimburse KVRE-FM for the reasonable costs incurred in the changeover of channels.

4. Authority for the adoption of the amendments contained herein appears in Sections 4(i), 5(d)(1), 303 and 307 (b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules.

5. In view of the foregoing, *it is ordered,* That effective November 28, 1975, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows:

City	*Channel No.*
California	
Santa Rosa	269A
St. Helena	257A
Missouri	
Tarkio	228A
South Carolina	
Surfside Beach	276A
Tennessee	
Trenton	249A

6. *It is further ordered,* That the outstanding construction permit held by Young Radio, Inc. for Station KVYN (FM), St. Helena, California, is modified to specify operation on Channel 257A instead of Channel 269A. The permittee shall inform the Commission in writing no later than November 28, 1975, of its acceptance of this modification. Station

[1] In order to meet the minimum spacing requirements of our rules, a site 1 mile northeast of Trenton would be required.

KVYN(FM) may continue to operate on Channel 269A until December 1, 1977, or until it is sooner ready to operate on Channel 257A, or until the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 257A, the permittee of Station KVYN(FM) shall submit to the Commission the technical information normally requested of an applicant for Channel 257A.

b) At least 10 days prior to commencin ing operation on Channel 257A, the permittee of Station KVYN(FM) shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The permittee of Station KVYN (FM) shall not commence operation on Channel 257A without prior Commission authorization.

7. *It is further ordered*, That the outstanding license held by KVRE, Inc., for Station KVRE-FM, Santa Rosa, California, is modified to specify operation on Channel 269A instead of Channel 257A. The licensee shall inform the Commission in writing no later than November 28, 1975, of its acceptance of this modification. Station KVRE-FM may continue to operate on Channel 257A until December 1, 1977, or until it is sooner ready to operate on Channel 269A, or until the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 269A, the licensee of Station KVRE-FM shall submit to the Commission the technical information normally requested of an applicant for Channel 269A.

(b) At least 10 days prior to commencing operation on Channel 269A, the licensee of Station KVRE-FM shall submit the measurement data required of an applicant for a broadcast station license; and

(c) The licensee of Station KVRE-FM shall not commence operation on Channel 269A without prior Commission authorization.

8. The change of operation by each station to its new channel of operation shall be effected simultaneously and the parties are expected to work out the details of such a simultaneous change. Young Radio, Inc., has indicated its willingness to reimburse KVRE, Inc. for the channel change concerning Station KVYN(FM). It is expected that the parties will work out the details of such reimbursement.

9. The Secretary of the Commission is directed to send a copy of this *Report and Order* to Young Radio, Inc., permittee of Station KVYN(FM), St. Helena, California, and KVRE, Inc., licensee of Station KVRE-FM, Santa Rosa, California.

Adopted: October 14, 1975.

Released: October 16, 1975.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNCATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28448 Filed 10-21-75;8:45 am]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments

In the matter of amendment of § 73.202 (b), Table of Assignments, FM Broadcast stations. (Hoquiam, Washington), Docket No. 20437, RM-2434.

1. The Commission has before it the *notice of proposed rule making*, adopted April 15, 1975, 40 Fed. Reg. 18463, inviting comments on a proposal to substitute Channel 237A for Channel 280A at Hoquiam, Washington. The only commenting party is petitioner, Grays Harbor Broadcasting Co.

2. Hoquiam, Washington (pop. 10,466),[1] is located in Grays Harbor County (pop. 59,553), approximately 50 miles west of Olympia, Washington. It is presently served by AM Station KGHO and Station KGHO-FM (Channel 280A) Hoquiam, Washington, both licensed to petitioner. The assignment of Channel 237A to Hoquiam will not affect any existing FM assignments.

3. The substitution of Channel 237A for Channel 280A at Hoquiam is requested by petitioner to alleviate mutual interference as resulting from a four-channel separation between its assignment and that of Station KDUX-FM (Channel 284) licensed at Ocean Shores, Washington, approximately 12 miles west of Hoquiam.[2] As indicated in the *Notice*, we have determined that an alternate channel, Channel 237A, is available for substitution at Hoquiam. Channel 237A is available for use only in a very limited area around Hoquiam. By adopting the proposed substitution of channels, Channel 280A will be made available for future assignment to other communities. Thus, efficient utilization of available frequencies will be maintained. In supporting comments petitioner requests that its license be modified to specify operation on Channel 237A if substituted herein. The Canadian Government has given its concurrence to the change in channel assignment. We therefore believe the public interest will be served by the proposed substitution and by modification of petitioner's license, accordingly.

4. Preclusion occurs only on the co-channel affecting a small area east of Hoquiam. The affected communities have alternate channels available for assignment.

5. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules.

6. Accordingly, *it is ordered*, That effective December 1, 1975, the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations is amended, insofar as the city listed below is concerned, to read as follows:

City:	*Channel No.*
Hoquiam, Washington	237A

7. *It is further ordered*, That effective December 1, 1975, and pursuant to Section 316 of the Communications Act of 1934, as amended, the outstanding license of Grays Harbor Broadcasting Company, for Station KGHO-FM, Hoquiam, Washington, is modified to specify operations on Channel 237A in lieu of Channel 280A subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than December 1, 1975, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by December 30, 1976, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station KGHO-FM on Channel 237A at Hoquiam, Washington.

(c) The licensee may continue to operate on Channel 280A under its outstanding authorization for one year from the effective date of this order, or effect the change sooner should it so desire. Ten days prior to commencing operation on Channel 237A, the licensee shall submit the same measurement data normally required in an application for an FM broadcast station license.

(d) The licensee shall not commence operation on Channel 237A until the Commission specifically authorizes it to do so.

8. *It is further ordered*, That the Secretary of the Commission is directed to send a copy of this *Report and Order* by certified mail, return receipt requested to Grays Harbor Broadcasting Co., Hoquiam, Washington.

9. *It is further ordered*, That this proceeding is terminated.

Adopted: October 14, 1975.

Released: October 17, 1975.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28449 Filed 10-21-75;8:45 am]

[Docket No. 20362]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Berryville, Va. and Harpers Ferry, W. Va.), Docket No. 20362, RM-2304, RM-2489.

1. The Commission here considers its *notice of proposed rule making* in Docket No. 20362, adopted on February 18, 1975 (40 FR 8965), which proposed the assignment of Channel 288A to either Berryville, Virginia, or Harpers Ferry, West Virginia.[1] The commenting parties in this proceeding are Benjamin Thomas, tr/as Greencastle Broadcasting Company ("Greencastle"), licensee of FM Station WKSL, Greencastle, Pennsylvania, and proponent of the Berryville assignment; Elektra Broadcasting Corporation ("Elektra"), licensee of AM Sta-

[1] All population data are taken from the 1970 U.S. Census.

[2] Channel 284 is assigned to Aberdeen, Washington, 4 miles east of Hoquiam. Station KDUX-FM is operated at Ocean Shores pursuant to Section 73.203(b) which permits use of a channel in an unlisted community within 15 miles (for Class B/C channels) of the listed community.

tion WTRI, Brunswick, Maryland, and proponent of the Harpers Ferry assignment; WXVA Broadcasting Corporation, licensee of AM Station WXVA and FM Station WZFM, both at Charles Town, West Virginia; and Madeline-Marie Gibbs of Arlington, Virginia.

2. Berryville, Virginia (population 1,509), is located in Clarke County (population 8,102). It is the county seat and commercial center for Clarke County. Neither Berryville nor Clarke County has local AM or FM service.

3. Harpers Ferry, West Virginia (population 423), is located in Jefferson County (population 21,280). It has no local aural service. However, it receives service from AM Station WXVA and FM Station WZFM, Charles Town, the seat of Jefferson County, and from proponent's AM Station WTRI, Brunswick, Maryland. Other more distant stations, also provide service.

4. In the *Notice* we proposed making the assignment to either of the two communities and sought more information from the proponents regarding the comparative needs of the respective communities. We have received a considerable amount of information and shall briefly summarize the relevant portions. Much of the data provided by Elektra regarding the future plans for tourism in Harpers Ferry is not recounted below. In addition, we need not repeat much of the information regarding the general characteristics of the two communities that was set forth in the *Notice*. Late-filed comments were received from WXVA Broadcasting Co., and from Greencastle. In view of our decision, based on the timely filings, to assign the channel consistent with the positions of WXVA Broadcasting Co. and Greencastle, we believe there is no need to discuss their late filings or whether there was good cause for the lateness of the filing.[2]

5. In its comments on behalf of Berryville, Greencastle argues that in considering which of two communities has a greater need for local aural service, the following should be considered: (a) the disparity of service between the two communities and the surrounding area; (b) the substantial difference in the comparative populations of the two communities; and (c) the compelling need in Berryville and Clarke County area for a first local broadcast service. We are told that Berryville's only newspaper is published weekly and that no broadcast stations are licensed to any communities in Clarke County, whereas Harpers Ferry presently receives primary service from both WXVA(AM) and WZFM(FM), Charles Town, West Virginia, only 7 miles away. Greencastle asserts that the disparity of services in the respective communities during the daytime is as follows:

Community	Frequency modulation	Amplitude modulation	Total
Berryville, Va.	4	4	8
Harpers Ferry, W. Va.	6	6	12

and during the nighttime:

Community	Frequency modulation	Amplitude modulation	Total
Berryville, Va.	4	0	4
Harpers Ferry, W. Va.	6	0	6

Greencastle asserts that in comparing the 1 mV/m contours of each assignment from their respective proposed transmitter locations, a common area of overlap is found, consisting of 225 square miles and 12,356 persons. This area is said to receive from a minimum of four to a maximum of seven FM services (but no AM nighttime services). In the area that only a Berryville station would serve, a minimum of two to a maximum of thirteen FM stations operate.[3] A Berryville assignment would provide a third FM service to 469 persons in an area of 31 square miles. An assignment to Harpers Ferry, on the other hand, would furnish service to an area already receiving a minimum of five to a maximum of fourteen FM services.

6. Elektra responds in its comments that we should consider Bolivar along with Harpers Ferry as the primary recipient of proposed local service. The two are characterised as "twin communities", which it says are "closely intertwined and have economic, historical and social ties". (Bolivar has a population of 944 according to the 1970 U.S. Census.) Jefferson County is described as a growing county with a 1970 population of 21,180, increased to an estimated 27,500 as of January 1975 and retail sales have increased from $41,315,000 in 1973 to $49,578,000 in 1974 according to the Manager of the Jefferson County Chamber of Commerce. It is alleged that tourist attractions in Harpers Ferry are so popular that presently some 1.5 million visitors come to the region each year according to a letter by a local business leader attached to Elektra's comments. Elektra cites our decision in *Monte Rio, Cal.*, 50 F.C.C. 2d 759 (1975), for the proposition that the total number of persons visiting Harpers Ferry should be considered in addition to the permanent residents in assigning channels to communities. Furthermore, Elektra states that a local radio station could help inform residents and tourists of the frequent floods that represent a danger to the area and especially to the "Lower Town" section of Harpers Ferry National Historical Park. Elektra also calls our attention to several letters submitted by various community leaders favoring the assignment of Channel 288A to Harpers Ferry.

7. WXVA Broadcasting Co., licensee of Stations WXVA(AM) and WZFM (FM), Charles Town, West Virginia, believes that Greencastle has demonstrated a greater need for a first FM station in Berryville. It notes that Berryville is the county seat, contains 19% of the county's population and that there is presently no broadcast facility licensed to any community in Clarke County. By contrast, it represents that Harpers Ferry has one-fourth the population of Berryville, has suffered a 26% decline in population since the 1960 U.S. Census and is the smallest community in Jefferson County with less than 2% of the county's total population.[4] Further it believes that Jefferson County is adequately served by the two stations operating in nearby Charles Town (licensed to WXVA Broadcasting Co.). WXVA does not share the opinion that Jefferson County has a bright economic future. It points to an unemployment rate of 9%, a significant percentage of subpoverty income level families and the consistent failure of the county to attract major industry. WXVA also maintains that its AM station serves Harpers Ferry with a 2 mV/m daytime signal and its FM station furnishes primary service to the community. Finally WXVA questions whether Elektra intends to serve Harpers Ferry primarily in light of some statements allegedly made by Elektra's President that he plans to use the FM station chiefly as a means of improving his existing broadcast service to Brunswick, Maryland, 5 miles distant, where he now operates WTRI(AM), (daytime-only).

8. In reply comments, Elektra disputes at length the gloomy economic picture described by WXVA Broadcasting Co. and avers that there is a "Master Plan for Growth" in Harpers Ferry already under evaluation. A large shopping center is scheduled for construction and zoning approval for further commercial and residential development has been obtained. In addition, a center for crafts is planned along with an outdoor amphitheatre for plays and dramas. A research center is also programmed for future development. Elektra argues that the Commission must evaluate the potential of a community for future devel-

[1] Separate petitions were filed for Channel 288A. The *Notice* consolidated these two petitions for comparative consideration. The channel cannot be assigned to both cities because they are only 18 miles apart, whereas the minimum co-channel mileage separation requirement for Class A channels is 65 miles.

[2] We received a filing from Elektra which included a "Motion to Strike" the late-filed pleadings of Greencastle and WXVA Broadcasting Co. or "In The Alternative to Accept Further Statement of Elektra . . ." and an "Opposition to Motion to Strike . . ." from WXVA Broadcasting Corporation. We are granting Elektra's motion to strike. Therefore, we did not consider Elektra's further statement, nor, for the reasons mentioned above, consider the late-filed material.

[3] Greencastle's study used the authorized facilities of existing stations as the basis for its figures. It is noted that three stations operate at less than the reasonable facility values required by a *Roanoke Rapids* study. If reasonable facilities were utilized than the areas near Berryville receiving two to four stations and the areas near Harpers Ferry receiving only five stations would be reduced.

[4] According to the 1970 U.S. Census which includes all incorporated places and all unincorporated places of 1,000 or more, Harpers Ferry is the smallest listed community in the county.

opment rather than limit consideration to its immediate outlook.

9. In its reply comments, WXVA Broadcasting Co. argues that Elektra has failed to consider the comparative needs of both communities. WXVA Broadcasting Co. urges that the town of Bolivar cannot be considered as Bolivar is a separate and distinct community with its own incorporated government. The case of Monte Rio, supra, is distinguished for two reasons. First, no other community had petitioned for the same channel so there was no need to undertake a comparative evaluation. Second, the decision clearly stated that the adequacy of service in the community was an important factor. Monte Rio was not adequately served and signals that reached the community emanated from distant stations. In addition the tourists in the Monte Rio area, a summer resort, were represented as visitors that stay one or more days and would have more likelihood of tuning to a local station as well as greater need to listen to local announcements. Harpers Ferry tourists normally stay for a few hours only, not overnight. WXVA Broadcasting Co. asserts that Elektra has provided unauthenticated statistics regarding the number of tourists that annually visit Harpers Ferry and it believes that the quoted figure of 1.5 million is highly doubtful. It alleges that since Elektra, by its own admission, provides coverage of many local events in Harpers Ferry, the needs of the residents are adequately met.

10. Elektra also has raised a technical issue requiring separate treatment before the comparative needs of the two communities are weighted. Elektra's engineering statement asserts that the Commission's method of prediction of service areas is an oversimplification. It does not question the accuracy of Greencastle's study of available services referred to in para. 5.

However, it states that predicted contours do not accurately reflect the actual service area of a given station especially in rough terrain. Only where terrain is relatively smooth, we are told, will a station's predicted contour properly describe the area in which the signal may be adequately received. It is argued that Harpers Ferry is mountainous and the predicted contours of nearby stations are rendered meaningless in such an area. Although Elektra's engineer accepts the premise that many daytime AM services are available to both Harpers Ferry and Berryville, it alleges that adequate service is not received at night. The engineering statement includes profiles which depict the 6 FM stations that allegedly reach Harpers Ferry and the significant terrain obstructions that each signal would encounter. It asserts that to measure whether these signals actually reach the community, the line-of-sight method must be utilized. Using this method it concludes that none of the six serve Harpers Ferry. Elektra concedes that this approach is unusual but insists that authority is provided by section 73.311 (a) which states that our predicted contours indicate only the approximate extent of service, by section 73.315 which mentions the use of line-of-sight propagation and by the Commission's previous acceptance of shadow-loss studies, terrain limited contours, etc. where propagation conditions are unusual.

11. While the Commission has recognized that certain technical deficiencies exist in the prediction method of field strength contours, it has found this method to be generally superior to others which have their own inadequacies. The conclusion which arises from our prediction method that a signal will reach a particular community may be rebutted by a convincing showing. But, the mere fact that terrain penetrates the line-of-sight of a signal does not establish the degree of shadow loss that will occur. In Plymouth, N.H., 46 F.C.C. 2d 221 (1974), the Commission stated at p. 226:

> Although the Notice herein stated that we tended to agree with Lakes Region that the more appropriate method for determination of service, because of the mountainous geography in the area, was on a terrain limited rather than the prediction basis, we had reservations as to the efficacy of such a method in a rule making proceeding. As illustrated above, there are conflicting claims of the location of 60 dBu contours which raise the question as to the validity of the claim of proposed limited service. We believe that the coverage determined by the standard prediction method, which fairly represents the expected coverage in most instances, should be used in our deliberation.

We also feel that in this case the prediction method most effectively measures the services available to Harpers Ferry residents.

12. In weighing the comparative needs of communities we have in the past set forth certain priorities to aid our determinations. We have reiterated in *Anamosa and Iowa City, Iowa*, 46 F.C.C. 2d 51 (1974), our long held view that provision should be made for a first FM service to as much of the population of the United States as possible, particularly that portion of the population which receives no primary AM service nighttime. If, as here, this is not determinative we consider lesser priorities and in so doing take into account the size of the communities, location with respect to other communities, and the number of outside services available. Neither community can be preferred in terms of first assignment or in providing a first or second aural or FM service. In terms of AM and FM service received, Berryville is to be favored. Moreover, it is the county seat and commercial center for Clarke County, Virginia, which is presently devoid of any local services, and Berryville is a much larger community than Harpers Ferry. We note that the population of Harpers Ferry has declined significantly between 1960 and 1970, and no information has been provided on which we can rely in establishing that a reversal of that trend has occurred since 1970. We are aware that Harpers Ferry is an historical landmark that will continue to attract many visitors, but most stay only briefly. Thus, we must regard Elektra's attempt to buttress its population total in this manner as insufficient. In addition, in other cases where we have considered the tourist inflow as a factor, we did not need to weigh that element against the comparative needs of another city seeking the same assignment. In such cases, where there is no need to establish a comparative advantage, just the presence of tourists can weigh heavily in persuading us to make the assignment. Here, it would be at the cost of an assignment to Berryville. Under these circumstances we believe that it would be contrary to the mandate of section 307(b) to assign a channel on the basis of an influx of tourists who are not likely to utilize the service if established. Finally, we note that the preclusive effects of the assignment are insignificant as was stated in the Notice.

13. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's Rules, it is ordered, that effective November 28, 1975, the FM Table of Assignments, section 73.202(b) of the rules, is amended to read as follows for the city listed below:

City	*Channel No.*
Berryville, Virginia	288A

14. It is further ordered that the Elektra Broadcasting Corporation's Motion to Strike the late-filed pleadings of Greencastle Broadcasting Company and WXVA Broadcasting Corporation is granted.

15. It is further ordered that this proceeding is terminated.

Adopted: October 14, 1975.
Released: October 16, 1975.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28450 Filed 10-21-75;8:45 am]

[Docket No. 20413, etc.]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments

In the matter of amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations. (Ankeny, Iowa; Copperas Cove, Texas; Davis, California; Emmetsburg, Iowa; Frankfort, Michigan; Hiawatha, Kansas; Howell, Michigan; Jewett, Ohio; New Lexington, Ohio; Ottawa, Ohio; Selmer, Tennessee; Yoakum, Texas), Docket No. 24013, FM-2416, RM-2470; RM-2505, RM-2510; RM-2492, RM-2511, RM-2496, RM-2508, RM-2486, RM-2504, RM-5209, RM-2483.

1. The Commission has before it the notice of proposed rule making adopted March 31, 1975 (40 FR 16680), inviting comments on a number of changes in the FM Table of Assignments (section 73.-202(b) of the Rules). The communities,

channel assignments proposed, and petitioning parties are as follows:

RM-2416—Channel 292A to Ankeny, Iowa [1] (Christian Communications, Inc.).
RM-2470—Channel 228A to Howell, Michigan [1] (B & H Broadcasting Company).
RM-2483—Channel 272A to Yoakum, Texas (Lloyd E. Kolbe).
RM-2486—Channel 257A to Frankfort, Michigan (Ivar T. Wedin).
RM-2492—Channel 288A to Davis, California [1] (Richard C. Dorf and Bruce Horrigan).
RM-2496—Channel 252A to Emmetsburg, Iowa, (John Fallon Schad, Jr.).
RM-2505—Channel 276A to Copperas Cove, Texas (B. Tex Samford).
RM-2508—Channel 292A to Ottawa, Ohio (Triplett Broadcasting Co., Inc.).
RM-2509—Channel 280A to Hiawatha, Kansas (Michael Carter).
RM-2510—Channel 292A to Jewett, Ohio (William A. Brackney).
RM-2511—Channel 292A to New Lexington, Ohio (William A. Brackney).

2. In the notice of proposed rule making there was also a proposal by WDTM, Incorporated, for the assignment of Channel 288A to Selmer, Tennessee (RM-2504). On June 17, 1975, WDTM, Inc. advised the Commission by letter that because of current economic conditions and the present uncertainty it does not believe it could unconditionally restate its earlier desire and intention to apply for a construction permit and construct seasonably. It therefore requested that its petition proposing to assign Channel 288A to Selmer, Tennessee, be withdrawn.

3. In each of the above cases the petitioner seeks the assignment of a first Class A FM channel without requiring any changes in the FM Table of Assignments. All proposals were unopposed except that concerning Frankfort, Michigan (RM-2486), which was opposed by Manistee Radio Corporation, licensee of Stations WMTE-AM and FM at Manistee, Michigan. The Manistee opposition, filed in reply comments, is discussed below.

4. Frankfort (pop. 1,660) [2] located in Benzie County (pop. 8,693), is situated on the northwest coast of the Lower Peninsula, approximately 25 miles north of Manistee and 30 miles west of Traverse City. It has no local aural broadcast facility. Manistee has two—WMTE(AM) and WMTE-FM, licensed to Manistee Radio Corporation (Manistee), Manistee, Michigan. Manistee in its opposition states that Ivar T. Wedin (Wedin), petitioner for Channel 257A at Frankfort, Michigan, failed to restate his present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly, as requested in the Appendix to the notice of proposed rule making, and therefore should be denied the proposed assignment on the basis of failure to prosecute the request. Manistee states that Wedin has totally failed to demonstrate that the assignment of Channel 257A to Frankfort would serve the public interest, convenience and necessity. Manistee argues that Frankfort and Benzie County are already well served by existing stations at Manistee and Traverse City (one full-time AM and one FM station at Manistee; one full-time AM station, a daytime-only AM station, and three FM stations at Traverse City). It adds that while it may be argued that Benzie County may be of sufficient size to warrant an FM station, Wedin submitted no facts in his petition to demonstrate that Frankfort can support a station and that there is not even an allegation that Frankfort can support its own FM station. Manistee points out that, while Station WMTE obviously devotes the major portion of its energy to serving the needs and interests of Manistee as its city of license, the needs and interests of the outlying areas are far from neglected, for the area of Frankfort, Beulah, Benzie and Honor, together with the Scotville area are considered to be second only to Manistee in importance.

5. In reply to Manistee's opposition, Wedin filed comments on June 27, 1975, contending that the notice did not state that a failure to file timely comments would automatically lead to denial of the request and that any delay that may have been caused by such omission did not affect any third party's rights and should not cause a delay in Commission action to enable a new station to be constructed and commence local service to a community.

6. On July 1, 1975, Manistee filed a Motion to Strike Wedin's comments pointing out that Wedin failed to file comments or reply comments by the dates specified in the Notice of Proposed Rule Making and that on that basis the untimely filed comments should be stricken from the proceeding.

7. As previously mentioned, Manistee points out that Wedin did not file timely comments in this proceeding expressing his continuing interest in assignment and use of a channel at Frankfort and urges that the proposal for assignment of a channel to that community should therefore be denied. Wedin, however, did file untimely comments expressing his continuing interest, and while we view with disfavor the failure to observe our procedural requirements in rule making proceedings because of the disruptive effects on the orderly dispatch of Commission business, we nonetheless in the instant case find that the disruption was not so great as to outweigh the substantive benefit to the public interest in assignment of a first FM channel to Frankfort now that Wedin has reaffirmed his interest in use of a channel there. To prevent a repetition of dilatory behavior on the part of Wedin, we here announce that if Wedin or another applicant does not tender an acceptable application for use of the channel within 6 months from the effective date of its assignment to Frankfort, the channel will be deleted without rule making.

8. In arriving at our decision herein, we have given consideration to all comments, supporting statements, and other pleadings. In the Notice of Proposed Rule Making we set out economic and other information pertaining to the need for a first FM assignment in each of the communities. That information is substantially correct and will not be repeated here, except to say that the communities range in size from 901 for Jewett, Ohio, to 23,488 for Davis, California (1970 Census), that a daytime-only station operates at Howell, Michigan, and that there are no local broadcast facilities at Ankeny, Iowa; Copperas Cove, Texas; Davis, California; Emmetsburg, Iowa; Frankfort, Michigan; Hiawatha, Kansas; Jewett, Ohio; New Lexington, Ohio; Ottawa, Ohio; or Yoakum, Texas. We are of the view that adoption of each proposal would serve the public interest.

9. Under the terms of the United States-Mexico FM Broadcasting Agreement and the 1947 United States-Canadian Working Agreement for FM Broadcasting Stations, representatives of the respective governments have indicated that there are no technical objection to these changes.

10. Authority for the adoption of the amendments contained herein appears in sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act, as amended, and section 0.281(b)(6) of the Commission's rules.

11. In view of the foregoing, it is ordered, that effective December 1, 1975, section 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read as follows:

City:	Channel No.
California	
Davis	288A
Iowa	
Ankeny	292A
Emmetsburg	252A
Kansas	
Hiawatha	280A
Michigan	
Frankfort	257A
Howell	228A
Ohio	
Jewett	292A
New Lexington	292A
Ottawa	292A
Texas	
Copperas Cove	276A
Yoakum	272A

12. It is further ordered, that this proceeding is terminated.

Adopted: October 14, 1975.

Released: October 17, 1975.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28451 Filed 10-21-75;8:45 am]

[Docket No. 20404]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broad-

[1] In order to meet the minimum mileage spacing requirements of our rules, a site 2.5 miles southwest of Ankeny, Iowa, would be required; a site 4 miles north of Howell, Michigan, would be required; and a site 4 miles west of Davis, California, would be required.

[2] All population figures are taken from the 1970 U.S. Census.

cast Stations. (Columbia, South Carolina), Docket No. 20404, RM-2411.

1. The Commission has before it the notice of proposed rule making, adopted March 26, 1975 (40 FR 15908), inviting comments on a proposal to assign Channel 276A to Columbia, South Carolina, as its fifth FM channel assignment. The only commenting party is petitioner, Nuance Corporation, licensee of Station WOIC(AM), Columbia.

2. Columbia (population 113,542),[1] the state capital, is located in Richland County (population 233,868), approximately 100 miles northwest of Charleston, South Carolina, and 190 miles east of Atlanta, Georgia. Columbia is presently served by 6 AM stations (5 of which are unlimited time) and 4 FM stations (2 of which are Class A). The transmitting antenna for a station operating on Channel 276A must be located north or northeast of the center of Columbia in order to meet the Commission's minimum mileage separation requirements (section 73.207 of the Commission's rules) with respect to Station WZZW(FM) (Channel 276A), Augusta, Georgia.

3. In supporting comments, petitioner states that it is the only Columbia station which provides programming on its AM station, WOIC, primarily oriented to the Black community of Columbia and the surrounding area. As a result of restrictions placed on its directional pattern and of nighttime limitations,[2] petitioner asserts that it is unable to provide interference-free coverage at night on its AM station to an area which includes 35,000 members of the Columbia Black community and 4,000 Blacks stationed nearby at Fort Jackson. Thus petitioner seeks an FM station for Columbia to provide local programming designed to serve its Black community for the first time.[3]

4. As stated in the Notice, the assignment of Channel 276A to Columbia would cause preclusion on the co-channel only involving the area surrounding Columbia. The new preclusion area, excluding Columbia suburban communities, contains no cities with a population of more than 1,000 persons.

5. Petitioner has reaffirmed its intention to apply for the channel if assigned to Columbia and to construct a station if its application is granted. In addition, our population criteria which permit the assignment of 4 to 6 channels to a community with a population between 100,000 and 250,000 persons[4] would not be a bar to the assignment of Channel 276A as a fifth FM channel to Columbia. Thus, we believe the assignment herein would serve the public interest.

6. Authority for the action taken herein is contained in sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and section 0.281(b)(6) of the Commission's rules.

7. Accordingly, it is ordered, that effective December 1, 1975, the FM Table of Assignments, section 73.202(b) of the Commission's rules, is amended, for the city listed below, as follows:

City	Channel No
Columbia, South Carolina	228A, 250, 261A, 276A, 284

8. It is further ordered, that this proceeding is terminated.

Adopted: October 14, 1975.

Released: October 16, 1975.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307).

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28452 Filed 10-21-75;8:45 am]

[Docket No. 20399]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Woodstock and Delhi, New York). Docket No. 20399, RM-2358.

1. This proceeding concerns our Notice of Proposed Rule Making, 40 FR 14944 (March 18, 1975), proposing the assignment of FM Channel 261A to either Woodstock, New York, or Delhi, New York. Woodstock Communications, Inc. ("Communications"), the petitioner in this action, filed comments to support its proposal to establish the channel at Woodstock. Hudson-Westchester Radio, Inc. ("Hudson-Westchester"), licensee of Station WGHQ and WBPM(FM) in Kingston, New York, filed comments supporting the assignment of that channel at Delhi, New York, incorporating by reference its opposition to the petition for rule making and an engineering statement filed earlier. The Woodstock and Delhi proposals are mutually exclusive.

2. Woodstock (pop. 1,073), located in Ulster County (pop. 141,241), is nine miles from Kingston, New York.[1] Woodstock's significant business activities are manufacturing, crafts, arts, music, and tourism. A number of Woodstock's citizens work at nearby manufacturing concerns. Woodstock does not have a local broadcast station nor an FM channel assignment. Delhi (pop. 3,107) is the seat of Delaware County (pop. 44,718). It is also without local aural service and likewise does not have an FM channel assignment. Hudson-Westchester seeks to establish that Delhi is more deserving of the assignment than Woodstock since it has a larger population and receives fewer services from distant sources. Hudson-Westchester also alleges that the assignment to Woodstock would actually be utilized to serve metropolitan Kingston which already has several stations that provide service to Woodstock.

3. Communications answers that it intends to apply for the channel if assigned to Woodstock and to build a station promptly. It states that its desire is to provide FM broadcast service tailored specifically to the local needs and interests of the Woodstock community and not Kingston. Communications has filed letters from townspeople a resolution from the town board, and editorials from the local newspaper in Woodstock, all expressing a need for a local radio station to serve that community. Regarding the preclusion on Dehli, Communications indicates that Channels 265A and 272A could be assigned to Delhi with appropriate transmitter sites and Canadian concurrence.

4. Neither Hudson-Westchester nor any other party has shown an interest in applying for or building a station on Channel 261A in Delhi if it were assigned. No purpose would be served by making the assignment there when no interest in its use has been shown. Communications, on the other hand, has clearly affirmed that it will file an application for Channel 261A if assigned to Woodstock and will construct and operate a station there if authorized. Also, assignment of Channel 261A to Woodstock would not prevent a future FM assignment to Delhi, since Channel 265A or 272A is available if needed to provide a first FM channel.

5. Concerning the other issues raised by Hudson-Westchester, we cannot agree that distant services to Woodstock are a substitute for a local broadcast station licensed to that community. Communications has demonstrated that it is not attempting to serve metropolitan Kingston, but intends to provide local FM service for the Woodstock area.[2] Likewise, the allegation of economic injury to existing Kingston stations is not a matter to be resolved in a rule making proceeding. Instead, it should be raised in con-

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[1] All population data are taken from the 1970 U.S. Census.

[2] WOIC(AM) operates on 1320 kHz with 5 kW power daytime and 1 kW power with directional antenna at night.

[3] We note that petitioner's statement regarding Black programming is relevant in that a need for an additional FM assignment to serve a significant proportion of the local residents has been demonstrated. However, by assigning Channel 276A to Columbia, no assurance is given that petitioner will be granted a permit to construct a station and a license to operate when evaluated against other applicants.

[4] See paragraph 5 of the Further Notice of Proposed Rule Making in Docket No. 14185 (FCC 62-867), incorporated in the Third Report, Memorandum Opinion and Order, 40 F.C.C. 747, 758 (1963).

[1] Kingston (pop. 25,544), county seat of Ulster, has two FM and three AM stations.

[2] The fact that Communications would use a transmitter site midway between the two cities does not alter this conclusion, as use of such a site is required if it is not to violate the spacing requirements.

nection with any application which may be filed.

6. Authority for the actions taken herein are contained in sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act, as amended, and section 0.281(b)(6) of the Commission's rules.

7. Accordingly, it is ordered, that effective November 28, 1975, the FM Table of Assignments, § 73.202(b) of the Commission's rules is amended [3] by adding the following thereto:

City	Channel No.
Woodstock, New York	261A

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

Adopted: October 14, 1975.

Released: October 15, 1975.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28454 Filed 10-21-75;8:45 am]

[Docket No. 20434]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Sapulpa, Oklahoma; Bristow, Oklahoma; Okmulgee, Oklahoma), Docket No. 20434, RM-2424.

1. The Commission has before it the *notice of proposed rule making*, adopted April 15, 1975, 40 Fed. Reg. 18461, inviting comments on a proposal to assign Channel 265A to Sapulpa, Oklahoma, as its first FM channel assignment. The only commenting party is the petitioner, KXOJ, Inc.

2. In order to implement this proposal, Channel 285A must be substituted for the presently unoccupied and unapplied for Channel 265A at Bristow, Oklahoma. This in turn requires that Channel 232A be substituted for Channel 285A at Okmulgee, Oklahoma. (These changes are necessary to conform with the minimum mileage separation rules. Section 73.207(b) of the Commission's Rules.) A construction permit has been granted to Brewer Communications, Inc., for a station (KBEV) on Channel 285A at Okmulgee, but the permit was conditioned on the outcome of this rule making proceeding.[1]

3. Sapulpa, with a population of 15,159,[2] is the seat of Creek County (pop. 45,532) and is located about 12 miles southwest of Tulsa, Oklahoma. Petitioner alleges that Sapulpa is a developing community and a manufacturing center. Two large glass manufacturing plants constitute its major industry. The community also attracts 100,000 tourists a year to visit a famous pottery factory and its recreational facilities.

4. Petitioner, KXOJ, Inc., is presently the licensee of daytime-only AM Station KXOJ, the only local aural service in Sapulpa, Oklahoma. Petitioner alleges that adoption of this proposed assignment would give Sapulpa its first full-time radio service which petitioner claims is needed to alert citizens of impending storms, natural or manmade disasters, and news of the local and world scene on an around-the-clock basis. In addition, in supporting comments, letters submitted by the City Manager of Sapulpa, the President of Sapulpa's Chamber of Commerce, and the Superintendent of Schools all indicate that nighttime radio service would enhance the living conditions in Sapulpa because there are many local cultural, sports, and other activities which could profitably be broadcast to Sapulpa's citizens if there were nighttime FM service.

5. In view of the need for a local nighttime broadcast station and the expressed public desire for a first FM station, we believe that the public interest would be served by the assignment of Channel 265A to Sapulpa, Oklahoma. This is consistent with priorities used in establishing the *FM Table of Assignments* in 1963—that insofar as possible, an FM broadcast station should be assigned where the community has only a daytime-only AM station. *Further Notice of proposed rule making* in Docket 14185, adopted July 25, 1962 (FCC 62-867).

6. Because of the proximity of Sapulpa to Tulsa, which has several FM channel assignments, a preclusion study was requested to determine whether alternative channel assignments are available to the communities within the precluded areas. Both the petitioner's preclusion report and the Commission's staff study show that no community would be foreclosed of an assignment by adopting the channel assignments proposed herein.

7. Petitioner has amended its pleadings by stating that it would apply for a license to operate on Channel 265A should it be assigned to Sapulpa. This complies with Commission policy that petitioner or any other person come forward and state an intention to apply for use of a channel prior to its assignment. *Princeton, Illinois*, 48 F.C.C. 2d 1036, 1037 (1974).

8. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules.

9. Accordingly, It Is Ordered, That effective December 1, 1975, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, Is Amended insofar as the cities listed below are concerned, to read as follows:

City	Channel No.
Sapulpa, Oklahoma	265A
Bristow, Oklahoma	285A
Okmulgee, Oklahoma	232A

10. It is further ordered, That the outstanding construction permit held by Brewer Communications, Inc., for Station KBEV(FM), Okmulgee, Oklahoma, IS MODIFIED to specify operation on Channel 232A instead of Channel 285A. The permittee shall inform the Commission in writing no later than December 1, 1975, of its acceptance of this modification. Also, not later than December 22, 1975, the permittee shall submit the necessary engineering information to the Commission to enable it to issue a modified construction permit.

11. It is further ordered, That the Secretary of the Commission shall send a copy of this *Report and Order* by Certified Mail, Return Receipt Requested, to Brewer Communications, Inc., permittee of KBEV(FM), Okmulgee, Oklahoma.

12. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

Adopted: October 14, 1975.

Released: October 17, 1975.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMUNICATIONS,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28455 Filed 10-21-75;8:45 am]

[Docket No. 20374]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Cape May Court House, New Jersey and Rehoboth Beach, Delaware), Docket No. 20374, RM-2347.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, adopted February 25, 1975 (40 Fed. Reg. 11610), proposing that Channel 225 be assigned to Cape May Court House, New Jersey, and that Channel 288A be substituted for Channel 224A at Rehoboth Beach, Delaware, or alternatively, that Channel 288A be assigned to Cape May Court House, New Jersey. Comments have been received from petitioner, Triplett Broadcasting Co., Inc., licensee of several stations in Ohio; from Melvin Gollub, permittee of Station WLRB(FM) (Channel 224A), Rehoboth Beach, Delaware; and from January Enterprises, Inc., licensee of AM Station WMID, Atlantic City, New Jersey, and Station WGRF(FM), Pleasantville, New Jersey.

[2] Canadian concurrence to this amendment has been obtained.

[3] All population data are from the 1970 U.S. Census, unless otherwise indicated.

[1] Brewer Communication's construction permit states:

This authorization is subject to the applicant's acceptance of any modification requiring use of a channel other than Channel 285A as a result of whatever action the Commission may take on a petition for rule making in RM-2424.

2. Cape May Court House, pop. 2,062,[1] is the seat of Cape May County, pop. 59,554. It has no local broadcast services. Cape May County is served by 4 FM and 2 AM stations.[2] The county is a popular tourist resort area with many beaches along the Atlantic Ocean.

3. In its comments, petitioner has sought to justify the assignment of a Class B channel to Cape May Court House, a community which would normally qualify only for a Class A assignment. The *Notice* requested that *Roanoke Rapids* [9 F.C.C. 2d 672 (1967)] and *Anamosa* [46 F.C.C. 2d 520 (1974)] showings be submitted to demonstrate whether a Class B channel would provide a first or second FM or aural service, respectively. Such showings are generally required to support the assignment of a wide-coverage channel to a community which would ordinarily be assigned a Class A channel.[3] Our policy, as expressed in *Revision of FM Broadcast Rules*, 40 F.C.C. 747, 758 (1963), is to assign Class A channels to smaller communities and Class B channels to larger urban centers. Thus, the *Notice* alternatively proposed the assignment of either a Class A or a Class B channel to Cape May Court House depending upon petitioner's *Roanoke Rapids* and *Anamosa* showings.

4. January Enterprises, Inc., has commented on our *Notice* by stating that petitioner has not demonstrated that the Commission's normal assignment criteria should be abandoned in favor of a Class B assignment to a community with a population of 2,062. It argues that petitioner has not answered the question of why a Class A frequency would not provide adequate service to the area. In January's opinion, petitioner's proposal for a Class B channel is really an attempt to compete with Atlantic City stations and to enter other outlying markets, as opposed to serving Cape May County which already has three Class A channels and one Class B channel.

5. Petitioner admits, in response to our *Notice*, that *Roanoke Rapids* and *Anamosa* studies would reveal that no land area would receive a first or second service. Nevertheless, petitioner insists that its prior showings indicate that substantial benefit would derive from a Class B assignment to Cape May Court House. Previously, petitioner asserted that a Class B station would serve 314,000 persons during the "off-season" and 547,000 persons during the summer while substantially fewer persons would be served by a Class A channel. However, we note that since no presently unserved or underserved areas would be reached by the proposed Class B assignment, it would be inefficient to employ a Class B channel to serve such a small community. Rather, if related changes were made in area assignments, Channels 225 could be more efficiently utilized in larger urban areas of New Jersey. We conclude that Channel 225 should not be assigned to Cape May Court House.[4] Thus, it is not necessary to consider the proposed substitution of channels at Rehoboth Beach, Delaware.

6. While there are arguments which could favor the assignment of a Class A channel to Cape May Court House, we note that petitioner has stated that it would not be interested in constructing and operating on a Class A channel if it were assigned. In view of our policy to require that an interested party must indicate its willingness to proceed to utilize a channel as a prerequisite for making the assignment, it is clear that the Class A assignment must also be rejected as no such party has stepped forward.

7. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules.

8. Accordingly, IT IS ORDERED, That the Petition for Rule Making submitted on behalf of the Triplett Broadcasting Co. IS DENIED.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: October 14, 1975.

Released: October 17, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28456 Filed 10-21-75;8:45 am]

[Docket No. 20208]

PART 73—RADIO BROADCAST SERVICES

Television Table of Assignments

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Manassas, Virginia), Docket No. 20208, RM-2344.

1. The Commission has under consideration its *notice of proposed rule making* adopted October 9, 1974, 39 Fed. Reg. 37510, inviting comments on a proposal to assign Channel 66 to Manassas, Virginia. This proceeding was instituted in response to a petition filed by National Capital Christian Broadcasting, Inc. ("NCCBI"). The petitioner and the Association of Maximum Service Telecasters, Inc. ("AMST"), were the only parties to file comments in response to the *Notice*. No reply comments were filed.

2. The comments of NCCBI support the proposed assignment and summarize many of the arguments contained in the original petition for rule making. AMST, while not opposing the requested assignment, does note that the Manassas reference point is short spaced to the co-channel, Fairmont, West Virginia, reference point. Because of this, AMST specifically requests the Commission to insure that any use of the channel would be at a site which would meet the mileage separation requirements. Since this is required by Section 73.610(a) of our rules, and it is our expectation that a site meeting the spacing would be utilized, there is no need to include in our action here any additional requirement.

3. Channel 66 is the last remaining assignment which can be made in this area of northern Virginia. Because the area is adjacent to the Washington, D.C., Urbanized Area it was necessary to determine whether the requested assignment was warranted in terms of the service it would provide to Manassas and vicinity rather than to the already well served Washington area. We were persuaded by NCCBI's showing. The industrial and residential sectors of the Manassas area have been growing and are expected to continue to do so and to produce a concomitant increase in the number of residents within the proposed service area. In fact, the county's population more than doubled between 1960 and 1970. Thus, the requested assignment offers the potential not only of becoming an outlet for local expression of this growing area but also represents the last opportunity of providing service suited to the particular needs of the people residing there. For these reasons, the Commission has concluded that the proposed assignment would benefit the public interest.

4. In view of the foregoing and pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, It is ordered, That effective November 28, 1975, the Television Table of Assignments contained in § 73.606(b) of the Commission's Rules and Regulations IS AMENDED with respect to the city listed below:

City	*Channel No.*
Manassas, Virginia	66+

5. It is further ordered, That this proceeding is TERMINATED.

Adopted: October 14, 1975.

Released: October 15, 1975.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-28453 Filed 10-21-75;8:45 am]

[1] All population figures are taken from the 1970 U.S. Census.

[2] Cape May County is presently served by FM Stations WCMC-FM (Channel 264), Wildwood, N.J.; WSLT-FM (Channel 292A), Ocean City, N.J.; WRIO-FM (Channel 272A), Cape May, N.J.; and WWOC(FM) (Channel 232A), Avalon, N.J. (construction permit issued). In addition, two AM stations presently serve the county: Stations WSLT(AM), Ocean City, and WCMC(AM), Wildwood. Relative to Cape May Court House, Avalon is 6.5 miles east-northeast; Ocean City, 20 miles northeast; Cape May, 12 miles southsouthwest, and Wildwood, 6.5 miles south.

[3] *See, e.g., Gregory, S.D., 45 F.C.C. 2d 471, 473 (1973); Jacksonville, N.C.*, 35 F.C.C. 2d 50 (1972); and *Bolivar, Mo.*, 3 F.C.C. 2d 671, 674 (1966).

[4] In view of the action taken herein, we need not consider the other arguments which have been made regarding the availability of a suitable site for a Class B station nor the possibility that the FAA may object to the construction of a 500 foot tower at the proposed transmitter site.

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. MC-68; Notice No. 75-16]

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Coiled Nylon Brake Tubing

● Purpose. This document amends the Federal Motor Carrier Safety Regulations to allow the use of coiled nylon brake tubing as hose on commercial semitrailers and full trailers. ●

Section 393.45(c) of the Federal Motor Carrier Safety Regulations (49 CFR 393.45(c)) is being amended to permit the use of coiled nylon brake tubing between the frame of a towed vehicle and an adjustable unsprung subframe of an adjustable axle of that towed vehicle. Motor carriers, operating motor vehicles in interstate or foreign commerce, will be permitted to use coiled nylon tubing that meets the requirements of Type 3B nylon tubing in SAE Standard J844C.

This rule change follows a notice of proposed rule making published in the Federal Register (40 FR 37045) on August 25. There were seven responses to the docket, four from trailer manufacturers, two from nylon tubing manufacturers, and one from a manufacturer of component parts for heavy duty vehicles. All but one commenter supported the proposed rule. Commenters supporting the proposal generally agreed that using coiled nylon brake tubing as prescribed in this document enhances highway safety by reducing the potential of air-brake hose failure.

The one objection to the proposal was based upon the fact that coiled nylon airbrake tubing results in a slightly slower air delivery in the airbrake system than when rubber airbrake hosing is used. However, the slower reaction times from brake application or brake release, when using the coiled nylon tubing, is measured in milliseconds, and are well within the National Highway Traffic Safety Administration requirements. See 49 CFR 571.121, 40 FR 38160 (August 27, 1975). Therefore, the difference is insignificant and there is no measurable compromise of safety in operation.

In consideration of the foregoing—and pursuant to section 204 of the Interstate Commerce Act, as amended (49 U.S.C. 304), section 6 of the Department of Transportation Act (49 U.S.C. 1655), and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 49 CFR 389.4, respectively—§ 393.45 (c) of the Federal Motor Carrier Safety Regulations is amended as stated below, effective April 1, 1976. However, compliance is authorized immediately.

Issued on October 15, 1975.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

Section 393.45(c) introductory text is revised to read as follows:

§ 393.45 Brake tubing and hose adequacy.

* * * * *

(c) *Nylon brake tubing.* Coiled nylon brake tubing may be used for connections between towed and towing vehicles or between the frame of a towed vehicle and the unsprung subframe of an adjustable axle of that vehicle if—

* * * * *

[FR Doc.75-28390 Filed 10-21-75;8:45 am]

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

[Docket No. 75-9; Notice 02]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Used Components in Manufacture of a Motor Vehicle

This notice amends 49 CFR 571.7, Applicability, by the addition of a new paragraph to specify the conditions under which a truck assembled by combining major new components with some used components will be considered used for the purpose of the motor vehicle safety standards, associated regulations, and the National Traffic and Motor Vehicle Safety Act.

The NHTSA proposed a modification of its existing interpretation of what constitutes the manufacture of a new motor vehicle when used components from an existing vehicle are involved (40 FR 19485, May 5, 1975). Up to this time, the NHTSA has considered that the addition of new components such as a truck body) to the chassis of a used vehicle does not constitute the manufacture of a new vehicle, but that the addition of used components to a new chassis which has never been certified in a vehicle constitutes the manufacture of a new vehicle, subject to the safety standards in effect for that vehicle class on the date of manufacture. This criterion has been relied on in the area of chassis-cab multistage manufacture.

Two truck manufacturers, the American Trucking Associations and the National Automobile Dealers Association, requested reconsideration of this criterion, because the high value of some components of a chassis make their reuse feasible although the entire chassis may not be reusable. They stressed the savings to an owner in combining a "glider kit" (typically a cab, frame rails, and front suspension) and the used power train of a wrecked or badly worn vehicle instead of purchasing a complete new vehicle from a truck manufacturer. Standard No. 121, *Air Brake Systems*, has heightened the importance of the question of what constitutes a new vehicle, since bringing vehicles with pre-121 axles into conformity with the standard appears to be economically impracticable.

The NHTSA proposed a statement of what constitutes manufacture of a vehicle in these cases which agreed with the suggestions of the two petitioning manufacturers, International Harvester and White Motor Corporation. The agency considered it important that the retention of a minimum number of valuable used components be required as a justification in each case, and that retention of the identity of the used vehicle, with respect to model year and identification number, be required as evidence that the reassembly is a bona fide salvage operation, to avoid creating any undue economic incentives for evasion of Standard No. 121.

Manufacturers and users supported the clarification that permits the continued use of glider kits in combination with pre-121 rear axles, but International Harvester, Mack, PACCAR, Transpac, and the State of California objected to the second criterion that vehicles be identified as the old vehicle. The comments indicate that requiring the identity of the old vehicle to continue in the rebuilt vehicle would have real and unintended disadvantages in the area of vehicle registration by the States. As proposed by the NHTSA, the registration would reflect a vehicle identification number that would not appear on the new vehicle frame or in the new vehicle cab, with resulting difficulty in verifying the true identity of the vehicle. The external identification on the cab would, in many cases, also disagree with the vehicle identification documents. The NHTSA agrees that State registration practices to avoid this confusion should be supported as long as the practice does not encourage the salvage of old vehicle components in order to avoid safety standards. Therefore, the NHTSA issues the provision in a form which includes only the requirement for at least two used drive train components.

Rockwell International cautioned the NHTSA against a decision that would encourage the reuse of unsafe components on the highway. The NHTSA always considers the possibility its regulations might encourage continued use of vehicles on the highway after they would normally be replaced. As in other cases the NHTSA will monitor the effect of its decision on glider kits to ensure that their use without requiring compliance with all applicable standards does not result in a pattern of conscious avoidance of Standard No. 121 or other standards. In the event the agency should discover evidence of such abuse, it will move decisively to appropriately revise the new statement of applicability.

Oshkosh Truck Corporation and Mack Trucks, Inc., both suggested that the scope of the proposal be modified to broaden its coverage. Oshkosh concluded that because a new cab was mentioned, the provision would prohibit the use of used cabs in vehicle assembly operations. Mack believed that the term "glider kits" would better describe the rebuilding operation being described?

The NHTSA would like to make clear to Oshkosh and others that the proposed paragraph (e) is not intended to regulate all truck rebuilding operations, but only those in which so many major new components are utilized (such as a glider

kit) that the vehicle is in many respects a newly-manufactured vehicle. This provision is intended to distinguish the legitimate rebuilding operation in which many new vehicle components are used from the typical assembly-line production of new vehicles. Oshkosh and other manufacturers may rebuild trucks with used components without falling under § 571.7(e).

In consideration of the foregoing, a new paragraph (e) is added to 49 CFR 571.7 to read as follows:

§ 571.7 Applicability.

* * * * *

(e) *Combining new and used components.* When a new cab is used in the assembly of a truck, the truck will be considered newly manufactured for purposes of paragraph (a) of this section, the application of the requirements of this chapter, and the Act, unless the engine, transmission, and drive axle(s) (as a minimum) of the assembled vehicle are not new, and at least two of these components were taken from the same vehicle.

Effective date: Because this amendment has the effect of relaxing a requirement for the compliance of vehicles to applicable motor vehicle safety standards, it is found for good cause shown that an immediate effective date is in the public interest.

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

Issued on October 16, 1975.

GENE G. MANNELLA,
Acting Administrator.

[FR Doc.75-28417 Filed 10-17-75;10:22 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. 35220]

PART 1037—RULES FOR THE HANDLING OF BULK GRAIN AND GRAIN PRODUCTS IN INTERSTATE COMMERCE, AND THE FILING, INVESTIGATION, AND DISPOSITION OF CLAIMS FOR LOSS AND DAMAGE INCIDENT THERETO, WHICH SUPERSEDE THE RULES PRESCRIBED IN EX PARTE NO. 263, LOSS AND DAMAGE CLAIMS, 340 I.C.C. 515 (37 FR 20943)

PRACTICES AND POLICIES IN THE SETTLEMENT OF LOSS AND DAMAGE CLAIMS ON GRAIN AND GRAIN PRODUCTS

Order

At a Session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 16th day of October 1975.

Upon consideration of the record in the above-entitled proceeding, and,

It appearing, That the Commission convened a conference in this proceeding on July 15, 1975 (40 FR 28886) at which time interested parties were invited to and did express their views as to the workability of the grain and grain product loss and damage rules prescribed in our prior report and order (346 I.C.C. 33);

It further appearing, That inasmuch as repair or replacement of defective equipment is either not possible or not practical, the interested parties agree that the written complaint requirement can and should be eliminated by deleting the last two sentences of Paragraph 3 of § 1037.3, 49 CFR 1037.3(c);

It further appearing, That the designation of open-top lined box cars as defective equipment may aggravate car supply problems during peak demand periods and has not resulted in the closing of interior linings, and that the interested parties agree that cars with open-top interior linings should no longer be considered defective equipment, nor should the use of open-top lined equipment be the basis for denying loss and damage claims;

It further appearing, That, in the absence of a contrary agreement between carrier and shipper or consignee, the forwarding of weight certificates and related data to carriers, as required by paragraphs 3 and 4 of § 1037.1, 49 CFR 1037.1 (c) and (d), is necessary only where a loss and damage claim is filed, and that the interested parties agree that the present rules should be changed to qualify a shipper's or consignee's data-forwarding obligation to those instances in which a claim is filed;

It further appearing, That the railroads have stipulated that estimated weights, along with any other evidence of the amount of grain shipped, constitute an acceptable indication of the amount of grain shipped where a shipment is lost or destroyed in transit before it is weighed, and that our proscription of the use of estimated weights in the settlement of loss and damage claims does not preclude the use of estimated weights in instances where a shipment is lost or destroyed in transit prior to weighing;

And it further appearing, That the parties participating in this proceeding have reached a consensus as to the necessity of modifying the present rules and as to the desirability of the modifications set out herein and agreed to by the parties at the August 14, 1975, conference (40 FR 33503), and that no substantial opposition has arisen in response to the Commission's Notice of Proposed Rulemaking and Modification of Regulations (40 FR 42221);

Wherefore, and good cause appearing therefor:

We find, That to a limited extent the rules prescribed in our prior report and order of March 12, 1974, do not fully reflect the realities of rail operations and grain loading practices throughout the Nation, that therefore the modifications discussed herein are necessary, and that the revised rules appended hereto should be prescribed for the handling of bulk grain and grain products in interstate commerce, and for the filing, investigation, and disposition of claims for loss and damage incident thereto; and,

It is ordered, That Part 1037, Subchapter A, Chapter X, Subtitle B, Title 49 of the Code of Federal Regulations be, and it is hereby, revised as follows:

1. Delete Paragraph 3 of Section 1037.1 (49 CFR 1037.1(c)), and in lieu thereof add,

3. Shipping weights—Where the shipper weighs the grain or grain products for shipment and a claim for loss and damage is subsequently filed on that shipment, the shipper shall furnish the carrier with whom the claim is filed certificates of weight showing car initials and number; the kind of grain or grain products; the total scale weight; the type and house number of the scale used; the number of drafts and weight of each draft; the date and time of weighing; whether the weight is official, board-of-trade, grain-exchange, State, or other supervised weight; and the number of grain doors used. This information should be furnished at the time the claim is filed.

2. Delete Paragraph 4 of Section 1037.1 (49 CFR 1037.1(d)), and in lieu thereof add,

4. Destination weights—Where the consignee weighs a shipment of grain or grain products and a claim for loss and damage is subsequently filed on that shipment, the consignee shall furnish the carrier with whom the claim is filed certificates of weight showing the car initials and number; the kind of grain or grain products; the total scale weight; the type and house number of the scale used; the number of drafts and weight of each draft, and the date and time of weighing; and whether the weight is official, board-of-trade, grain-exchange, State, or other supervised weight. This information should be furnished at the time the claim is filed.

3. In Paragraph 1 of Section 1037.2 (49 CFR 1037.2(a)), delete the words "open-top interior linings or" appearing in line 3 of that paragraph.

4. Establish a new provision, Paragraph 3 of Section 1037.2 reading,

3. Cars with open-top linings tendered by the railroads may be used by the shipper without jeopardizing any subsequent claim which may be filed.

5. In Paragraph 3 of Section 1037.3 (49 CFR 1037.3(c)), delete the last two sentences of that paragraph so that the provision will read,

3. In case of a disputed claim, the records of both the carrier and the claimant affecting the shipment involved shall be available to both parties. These records shall include a written complaint, if any, filed by the shipper with the railroads at the time the car was placed for loading that the car was defective, and the written report of an investigation of the complaint, filed by the railroad with the shipper, if made.

It is further ordered, That the revisions prescribed herein be, and they are hereby prescribed to become effective on the date of service of this order, and that the revised rules will apply for the handling of bulk grain and grain products and for the filing, investigation, and disposition of loss and damage claims for grain or grain products shipped on or after the said effective date;[1]

[1] Petitions for clarification relating to the effective date of the increased weight tolerance are pending and will be disposed of by separate order.

It is further ordered, That public notice of the disposition of the above-enumerated matters shall be given by depositing a copy of this order in the office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

By the Commission, Division 2.

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

§ 1037.1 Weights and weighing.

(a) How determined—Accuracy of the weights used in determining the quantity of grain and grain products received for transportation by carriers and delivered by them to consignees being of primary and fundamental importance, the use of estimated weights based upon the cubical contents of the load and the test weight per bushel of the grain and grain products, or otherwise, will not be accepted. All shipments shall be carefully weighed by competent weighers upon scales that are known to be accurate within the limits of tolerance stated in scale specifications.

(b) Inspection of scales—Before weighing grain and grain products to and from cars, the scale and all other facilities to be used must be thoroughly inspected to ascertain whether they are in proper working condition, necessary adjustments or repairs, if any required, must be made, and an accurate and complete record thereof shall be entered at the time of inspection.

(c) Shipping weights—Where the shipper weighs the grain or grain products for shipment and a claim for loss and damage is subsequently filed on that shipment, the shipper shall furnish the carrier with whom the claim is filed certificates of weight showing car initials and number; the kind of grain or grain products; the total scale weight; the type and house number of the scale used; the number of drafts and weight of each draft; the date and time of weighing; whether the weight is official, board-of-trade, grain-exchange, State, or other supervised weight; and the number of grain doors used. This information should be furnished at the time the claim is filed.

(d) Destination weights—Where the consignee weighs a shipment of grain or grain products and a claim for loss and damage is subsequently filed on the shipment, the consignee shall furnish the carrier with whom the claim is filed certificates of weight showing the car initials and number; the kind of grain or grain products; the total scale weight; the type and house number of the scale used; the number of drafts and weight of each draft, and the date and time of weighing; and whether the weight is official, board-of-trade, grain-exchange, State, or other supervised weight. This information should be furnished at the time the claim is filed.

(e) A difference in weights at origin and destination, both of which are based on supervised scales, establishes *prima facie* that the loss occurred in transit and that the railroad is liable. When a difference in weights is based in part on an unsupervised weight, which nevertheless, was accepted by the railroad as the basis for assessing freight charges, such unsupervised weight in combination with a supervised weight establishes *prima facie* that the loss occurred in transit and the railroad is liable. When a difference in weights is based in part on an unsupervised weight, with the above exception, a *prima facie* case of railroad liability for loss in transit has *not* been established. Such difference in weights is a factor, however, to be considered in connection with other evidence that a clear-record car arrived at destination with seals intact and unbroken or that the shipper made a written complaint that any car placed for loading was defective, in response to which the railroad filed a written report after investigation of the complaint. See paragraph 3 of Section 1037.3.

§ 1037.2 Cars.

(a) A car is not in suitable condition for the transportation of bulk grain and grain products when it is defective and a car is defective, among other reasons, when it has deteriorated doorposts to which grain doors cannot be securely attached by the use of retention straps.

(b) The rules prescribed in this part 1037, apply on shipments of bulk grain and grain products transported solely in railroad-owned and railroad-leased cars.

(c) Cars with open-top linings tendered by the railroads may be used by the shipper without jeopardizing any subsequent claim which may be filed.

§ 1037.3 Claims.

(a) In computing the amount of the loss for which the carrier will pay there will be deducted from the gross amount of the ascertained actual loss one-fourth of 1 percent of the established loading weight to cover invisible loss and waste; provided, however, that where grain and grain products heat in transit and investigation shows that the invisible loss resulting therefrom exceeded one-fourth of 1 percent of such other amount as may hereafter be fixed in the manner above stated, and that the carrier is not otherwise liable for said loss, then the ascertained actual amount of the invisible loss due to heating of the grain and grain products will be deducted.

(b) Where investigation discloses a defect in equipment, seal or seal record, or a transfer in transit by the carrier of a carload of bulk grain or grain products upon which the unloading weight is less than the loading weight and the shipper furnishes duly attested certificates showing the correctness of the claimed weight, and investigation fails to show that the discrepancy is due to defective scales or other shipper facilities, or to inaccurate weighing or other error at point of origin or destination, or to fraud, then the resulting claim will be adjusted subject to the deductions authorized in the immediately preceding paragraph 1 of this Section 1037.3; provided, however, that the clear record of either the carriers' or shippers' facilities shall not be interpreted as affecting or changing the burden of proof now lawfully resting upon either party. Therefore, movement in a clear-record car is not conclusive evidence of the fact that the car is not defective. It must be considered along with other evidence to determine liability. See paragraph 5 of section 1037.1.

(c) In case of a disputed claim, the records of both the carrier and the claimant affecting the shipment involved shall be available to both parties. These records shall include a written complaint, if any, filed by the shipper with the railroad at the time the car was placed for loading that the car was defective, and the written report of an investigation of the complaint, filed by the railroad with the shipper, if made.

[FR Doc.75-28489 Filed 10-21-75;8:45 am]

proposed rules

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

QUALIFIED JOINT AND SURVIVOR ANNUITIES

Notice of Proposed Rule Making; Correction

On Friday, October 3, 1975, notice of proposed rule making was published in the FEDERAL REGISTER (40 FR 45828). The following corrections are made to the proposed regulations:

(1) In line 10 of subdivision (i) of § 1.401(a)–11(c)(3) (page 45831), the reference to subdivision (i) should be redesignated "subdivision (ii)".

(2) In line 6 of subparagraph (2) of § 1.401(a)–11(e) (page 45832), the reference to (d)(2) should be redesignated "(d)(3)".

(3) In line 3 of paragraph (f) of § 1.401(a)–11 (page 45832), the reference to (d)(2) should be redesignated "(d)(3)".

(4) In line 8 of paragraph (f) of § 1.401(a)–11 (page 45832), the reference to (d)(2) should be redesignated "(d)(3)".

(5) In line 3 of subparagraph (2) of § 1.401(a)–11(f) (page 45832), the word "participation's" should be "participant's".

ROBERT A. BLEY,
Acting Director, Legislation and Regulations Division.

[FR Doc.75-28492 Filed 10-21-75;8:45 am]

[31 CFR Part 12]

HEARING RULES FOR SANCTION PROCEEDINGS PURSUANT TO EXECUTIVE ORDER 11246

Notice of Proposed Rulemaking

The Department of the Treasury proposes to adopt hearing rules for sanction proceedings pursuant to Executive Order 11246. The hearing rules would apply to determine whether a Department of the Treasury contractor is in compliance with 41 CFR Part 60 and 41 CFR Part 10–12. If after the issuance of a show cause notice the contractor does not within 30 days show cause why enforcement proceedings pursuant to Executive Order 11246 should not be instituted, the agency will issue a notice of proposed cancellation, termination, or ineligibility. The proposed regulations would govern the procedures which thereby ensue. The proposed hearing rules are modeled on the Department of Labor hearing rules contained at 41 CFR 60–1.26.

The Department of the Treasury plans to recodify and revise at a later date 41 CFR Part 10–12, as 31 CFR Part 12, Subpart A.

Consideration will be given to any comments or suggestions regarding the proposed rules. Such comments or suggestions should be submitted in writing (preferably in duplicate) to the Office of Equal Opportunity Program, Department of the Treasury, Washington, D.C. 20220 on or before November 28, 1975.

Any such comments will be available for public inspection upon request therefor.

Therefore it is proposed that a new Part 12, Subpart B be added to Subtitle A of Title 31 of the Code of Federal Regulations to read as follows:

[SEAL] EDWARD C. SCHMULTS,
Under Secretary.

PART 12—SANCTION PROCEEDINGS

Subpart B—Hearing Rules

Sec.

12.101 Applicability of rules, waiver, modification.
12.102 Definitions.
12.103 Computation of time.
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12.124 Oral argument.
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12.126 Summary judgment.
12.127 Proposed findings of fact and conclusions.
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12.129 Recommended decision.
12.130 Exceptions to recommended decision.
12.131 Record for Final Treasury Department Decision.
12.132 Final Treasury Department Decision.
12.133 Submission of Final Treasury Department Decision to OFCC.

AUTHORITY: Executive Order 11246, as amended.

§ 12.101 Applicability of rules, waiver, modification.

(a) *Applicability of rules.* These rules of procedure supplement the provisions of 41 CFR 60–1.26(b). The rules govern the practice and procedure for hearings conducted with respect to the imposition of sanctions under sections 208(b), 209(a)(5) and (6) of Executive Order No. 11246, as amended.

(b) *Waiver, modification.* Upon notice to all parties, the hearing examiner or the Under Secretary may, with respect to matters pending before him modify or waive any rule herein upon a determination that no party will be prejudiced and that the ends of justice will be served thereby.

§ 12.102 Definitions.

As used in these rules:

(a) "Department" means the Department of Treasury.

(b) "Director" means the Director of the Equal Opportunity Program, Department of the Treasury.

(c) "Notice" means, unless the context clearly indicates otherwise, the Notice of Proposed Cancellation, Termination or Ineligibility.

(d) "The order" means Executive Order 11246 of September 24, 1965 (30 FR 12319), as amended (32 FR 14303).

(e) "Party" means a respondent; the Director of the Equal Opportunity Program, Department of the Treasury; and any person or organization participating in a proceeding pursuant to § 15.12(a).

(f) "Respondent" means a person or organization against whom sanctions are proposed because of alleged violations of Executive Order 11246, and the rules, regulations, and orders thereunder.

(g) "Under Secretary" means Under Secretary of the Department of the Treasury.

§ 12.103 Computation of time.

In computing any period of time under these rules or in an order issued hereunder, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed in the District of Columbia, in which event it includes the next following business day.

§ 12.104 Form.

Documents and pleadings filed pursuant to a proceeding herein shall be dated, the original signed in ink, shall show the docket description and title of the proceeding, and shall show the title, if any, and address of the signatory. Copies need not be signed, but the name of the person signing the original shall be reproduced.

§ 12.105 Filing; service.

(a) *Manner of service.* Service upon any party shall be made by the party fil-

ing the document or pleading by delivering a copy or mailing a copy to the last known address: *Provided, however,* That the notice of hearing shall be sent by registered mail, return receipt requested, pursuant to 41 CFR 60–1.26(b)(1).

(b) *Upon whom served.* All papers shall be served upon counsel of record and upon parties not represented by counsel.

(c) *Proof of service.* A certificate of the person serving the pleading or other document by personal delivery or by mailing, setting forth the manner of said service shall be prima facie proof of service.

(d) *Number of copies.* An original and two copies of documents shall be filed with the hearing examiner designated to hear the case. If no hearing examiner has been assigned, the original and two copies of the documents shall be filed with the Under Secretary.

§ 12.106 Notice of proposed cancellation, termination, or ineligibility.

(a) Actions shall be commenced under this part and 41 CFR 60–1.26(b)(2) by service of a written notice on the contractor or subcontractor against whom the Director seeks the imposition of sanctions. The notice shall indicate whether the Director proposes to request the Under Secretary to cancel or terminate, or cause to be canceled or terminated, in whole or in part, any one or more contracts or subcontracts or to declare the prime contractor or subcontractor ineligible for further contracts or subcontracts under section 209 of the order. The notice shall contain a concise jurisdictional statement, a short and plain statement of the matter furnishing a basis for the imposition of sanctions, an enumeration of the sanctions being proposed, and a citation of the provisions of the order or regulations pursuant to which the requested action may be taken.

(b) *Posting the notice.* Immediately upon receipt of the Notice, the Respondent shall post it at the affected worksite in a place conspicuous to Respondent's employees.

§ 12.107 Answer.

(a) *Filing and service.* Within 14 days after receipt of the notice of proposed cancellation, termination, or ineligibility, Respondent shall file an answer and a hearing request with the hearing examiner or, if no hearing examiner has been designated, with the Under Secretary.

(b) *Contents; failure to file.* The answer shall admit or deny specifically, and in detail, matters set forth in each allegation of the notice, unless Respondent is without knowledge, in which case the answer shall so state, and the statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. Failure to file an answer shall constitute an admission of all facts recited in the notice.

(c) *Hearing request.* The request for a hearing shall be included as a separate paragraph of the answer.

§ 12.108 Amendments.

The Director may amend the notice once as a matter of course before an answer is filed, and Respondent may amend its answer once as a matter of course not later than 10 days after the filing of the original answer. Other amendments of the notice or of the answer to the notice shall be made only by leave of the hearing examiner. An amended notice shall be answered within 7 days of its service, or within the time for filing an answer to the original notice, whichever period is longer.

§ 12.109 Notice of hearing.

In response to Respondent's request for a hearing, a notice of hearing shall be served on the Respondent pursuant to 41 CFR 60–1.26(b)(1). Such notice shall contain the time, place, and nature of the hearing and the legal authority under which the proceedings are to be held.

§ 12.110 Motions; disposition of motions.

(a) *Motions.* Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the hearing examiner, or with the Under Secretary if no hearing examiner has been designated. If made before or after the hearing itself, these matters shall be in writing. If made at the hearing, they may be stated orally. Within 7 days after a written motion is received, or such other time period as may be fixed, any party may file a response to a motion.

(b) *Disposition of motions.* The hearing examiner, or Under Secretary, may not grant a written motion prior to expiration of the time for filing responses thereto, except upon consent of the parties or following a hearing thereon, but may overrule or deny such motion without awaiting response: *Provided, however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions. Rulings by the hearing examiner shall not be appealed prior to the transfer of the case to the Under Secretary, but shall be considered by the Under Secretary when the case is transferred to him for decision.

§ 12.111 Participation by interested persons.

(a)(1) To the extent that proceedings hereunder involve employment of persons covered by a collective bargaining agreement, and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party.

(2) Other persons or organizations shall have the right to participate as parties if the final decision of the Under Secretary could adversely affect them or the class they represent and such participation may contribute materially to the proper disposition of the proceedings.

(3) Any person or organization wishing to participate as a party under this paragraph shall file and serve upon the hearing examiner, or upon the Under Secretary, if no hearing examiner has been designated, and all parties a petition within 14 days after the commencement of the action. Such petition shall concisely state (i) petitioner's interest in the proceedings, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitioner intends to present witnesses.

(4) The hearing examiner shall determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interest, the hearing examiner may request all such petitioners to designate a single representative to represent all such petitioners: *Provided,* That the representative of a labor organization qualifying to participate under subparagraph (1) of this paragraph must be permitted to participate in the proceeding. The hearing examiner shall give each petitioner written notice of the decision on his petition; and if the petition is denied, he shall briefly state the grounds for denial and shall then treat the petition as a request for participation as amicus curiae. The hearing examiner shall give written notice to each party of each petition granted.

(b)(1) Any other interested person or organization wishing to participate as amicus curiae shall file a petition before the commencement of the final hearing with the hearing examiner. Such petition shall concisely state (i) the petitioner's interest in the hearing, (ii) who will represent the petitioner, and (iii) the issues on which petitioner intends to present argument. The hearing examiner may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, and that such participation may contribute materially to the proper disposition of the issues. An amicus curiae is not a party, but may participate as provided in this paragraph.

(2) An amicus curiae may present a brief oral statement at the hearing, at the point in the proceedings specified by the hearing examiner. He may submit a written statement of position to the hearing examiner prior to the beginning of a hearing, and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs and exceptions, and shall serve a copy on each party.

§ 12.112 Admissions as to facts and documents.

Not later than 14 days prior to the date of the hearing, except for good cause shown, or not later than 14 days prior to such earlier date as the hearing examiner may order, any party may serve upon an opposing party a written request for the admission of the genuineness and authenticity of any relevant documents described in, and exhibited with, the request, or for the admission of the truth of any relevant matters of fact stated in the request. Each of the matters as to which an admission is requested shall be

deemed admitted, unless within a period designated in the request (not less than 7 days, and not more than 10 days, after receipt of service thereof) the party to whom the request is directed serves upon the requesting party a sworn statement either (a) denying specifically the matters as to which an admission is requested, or (b) setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

§ 12.113 Production of documents and things and entry upon land for inspection and other purposes.

(a) After commencement of the action, any party may serve on any other party a request to produce and/or permit the party, or someone acting on his behalf, to inspect and copy any unprivileged documents, phonorecords, and other compilations which contain or may lead to relevant information and which are in the possession, custody, or control of the party upon whom the request is served. If necessary, translation of data compilations shall be done by the party furnishing the information.

(b) After commencement of the action, any party may serve on any other party a request to permit entry upon designated property which may be relevant to the issues in the proceeding and which is in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying or photographing, testing, or sampling the property or any designated object or area.

(c) Each request shall set forth with reasonable particularity the items to be inspected and shall specify a reasonable time and place for making the inspection and performing the related acts.

(d) The party upon whom the request is served shall respond within 10 days after receipt of service of the request. The response shall state, with respect to each item, that inspection and related activities will be permitted as requested, unless there are objections, in which case the reasons for each objection shall be stated. The party submitting the request may move for an order with respect to any objection or to other failure to respond.

§ 12.114 Depositions upon oral examination.

(a) *Depositions; notice of examination.* After commencement of the action, any party may take the testimony of any person, including a party, having personal or expert knowledge of the matters in issue, by deposition upon oral examination for the purposes of discovery and/or the perpetuation of testimony. A party desiring to take a deposition shall give reasonable notice in writing to every other party to the proceeding. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs. The notice shall also set forth the categories of documents the witness is to bring with him to the deposition, if any. A copy of the notice shall be furnished to the person to be examined unless his name is unknown.

(b) *Production of witness; obligation of parties; objections.* It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Depositions shall be held within the county in which the witness resides or works. The party or prospective witness may file with the hearing examiner, or with the Under Secretary, if no hearing examiner has been assigned, an objection within 7 days after the identity of such witness first becomes known, stating with particularity the reasons why the party cannot or ought not to produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness. All errors or irregularities in compliance with the provisions of this section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is noted or, with due diligence, might have been ascertained.

(c) *Before whom taken; scope of examination; failure to answer.* Depositions may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the deposition is held. At the time and place specified in the notice, the officer designated to take the deposition shall permit each party to examine and cross-examine the witness under oath upon any unprivileged matter which is relevant to the subject matter of the proceeding, or which is reasonably calculated to lead to the production of relevant and otherwise admissible evidence. All objections to questions, except as to the form thereof, and all objections to evidence are reserved until the hearing. A refusal or failure on the part of any person under the control of a party to answer a question shall operate to create a presumption that the answer, if given, would be unfavorable to the controlling party, unless the question is subsequently ruled improper by the hearing examiner or the hearing examiner rules that there was valid justification for the witness' failure or refusal to answer the question: *Provided*, That the examining party shall note on the record during the deposition the question which the dependent has failed, or refused to answer, and state his intention to invoke the presumption if no answer is forthcoming.

(d) *Subscription; certification; filing.* The testimony shall be reduced to typewriting by the officer taking the deposition or under his direction, and shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him and that the deposition is a true record of the testimony and exhibits given by the witness, and that said officer is not of counsel or attorney to any of the parties nor interested in the proceeding. If the deposition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be noted in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver any original copy of the transcript, together with his certificate, in person or by mail to the hearing examiner, or to the Under Secretary, if no hearing examiner has been assigned. Copies of the transcript and certificate shall be furnished to all persons desiring them, upon payment of reasonable charges thereof, unless distribution is restricted by order of the hearing examiner for good cause shown.

(e) *Rulings on admissibility; use of deposition.* Subject to the provisions of this section, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying. Any part or all of a deposition, so far as admissible in the discretion of the hearing examiner, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with the following provisions:

(1) Any deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or managing agent, or was designated to testify on behalf of a public or private corporation, partnership, association, or governmental agency which is a party may be used by the adverse party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the hearing examiner finds: (i) That the witness is dead; or (ii) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment; or (iii) that the party offering the deposition has been unable to procure the attendance of the witness by notice; or (iv) upon application and notice, that such exceptional circumstances exist as to make it desirable to allow the deposition to be used.

(4) If only part of a deposition is introduced in evidence by a party, any party may introduce any other parts by way of rebuttal and otherwise.

(f) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

§ 12.115 Designation.

Hearings shall be held before a hearing examiner designated by the Under Sec-

retary. After service of an order designating a hearing examiner to preside, and until such examiner makes his decision, motions and petitions shall be submitted to him. In the case of the death, illness, disqualification, or unavailability of the designated hearing examiner, another hearing examiner may be designated to take his place.

§ 12.116 Authority and responsibilities.

The hearing examiner shall propose findings and conclusions to the Under Secretary on the basis of the record before him. In order to do so, he shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order. He shall have all powers necessary to those ends, including, but not limited to, the power to:

(a) Hold conferences to settle, simplify, or fix the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding by consent of the parties or upon his own motion;

(b) Require parties to state their position with respect to the various issues in the proceeding;

(c) Require parties to produce for examination those relevant witnesses and documents under their control;

(d) Administer oaths;

(e) Rule on motions, and other procedural items on matters pending before him;

(f) Regulate the course of the hearing and conduct of participants therein;

(g) Examine and cross-examine witnesses, and introduce into the record documentary or other evidence;

(h) Receive rule on exclude, or limit evidence, and limit lines of questioning or testimony which are irrelevant, immaterial or unduly repititous;

(i) Fix time limits for submission of written documents in matters before him and extend any time limits established by this part upon a determination that no party will be prejudiced and that the ends of justice will be served thereby;

(j) Impose appropriate sanctions against any party or person failing to obey an order under these rules which may include:

(1) Excluding all testimony of an unreponsive or evasive witness, or determining that the answer of such witness, if given, would be unfavorable to the party having control over him; and

(2) Expelling any party or person from further participation in the hearing;

(k) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice;

(l) Recommend whether the Respondent is in current violation of Executive Order 11246, as amended, and applicable rules, regulations, and orders as well as the nature of whatever corrective action may be necessary to bring the Respondent into compliance with the equal employment opportunity clause;

(m) Recommend to the Under Secretary the adoption of a consent order agreed to by the parties in settlement of the issues in a proceeding; and

(n) Take any action authorized by these rules.

§ 12.117 Appearances.

(a) *Representation.* The parties or other persons or organizations participating pursuant to § 12.111 have the right to be represented by counsel.

(b) *Failure to appear.* In the event that a party appears at the hearing and no party appears of the opposing side, the party who is present shall have an election to present his evidence in whole or such portion thereof sufficient to make a prima facie case before the hearing examiner. Failure to appear at the hearing shall not be deemed to be a waiver of the right to be served with a copy of the hearing examiner's recommended decision and to file exceptions to it.

§ 12.118 Appearance of witnesses.

(a) A party wishing to procure the appearance at the hearing of any person having personal or expert knowledge of the matters in issue shall serve on the prospective witness a notice setting forth the time, date, and place at which he is to appear for the purpose of giving testimony. The notice shall also set forth the categories of documents the witness is to bring with him to the hearing if any. A copy of the notice shall be filed with the hearing examiner and additional copies shall be served upon the opposing parties.

(b) It shall be the obligation of each party to produce for examination any person, along with such documents as may be requested, at the time and place, and on the date, set forth in the notice, if that party has control over such person. Each party shall be deemed to have control over its officers, agents, employees, and members. Due regard shall be given to the convenience of witnesses in scheduling their testimony so that they will be detained no longer than reasonably necessary.

(c) The party or prospective witness may file an objection within 7 days after the identity of such witness first becomes known, stating with particularity the reasons why the party cannot produce a requested witness. The party serving the notice may move for an order with respect to such objection or failure to produce a witness.

§ 12.119 Evidence; testimony.

Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence available shall be applied, as the hearing examiner directs. A witness shall be available for cross-examination, and, at the discretion of the hearing examiner, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding. The hearing examiner may exclude evidence which is immaterial, irrelevant, or unduly repetitous.

§ 12.120 Objections; exceptions.

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

(b) *Exceptions.* Formal exception to an adverse ruling is not required. Rulings by the hearing examiner shall not be appealed prior to the transfer of the case to the Under Secretary, but shall be considered by the Under Secretary upon filing exceptions to the hearing examiner's recommendations and conclusions.

§ 12.121 Offer of proof.

An offer of proof made in connection with an objection taken to any ruling of the hearing examiner excluding proffered oral testimony shall consist of a statement of the substance of the evidence which the offeror contends would be adduced by such testimony; and, if the excluded evidence consists of evidence in written form or consists of reference to documents, a copy of such evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 12.122 Public documents.

Whenever a party offers a public document, or part thereof, in evidence, and such document, or part thereof, has been shown by the offeror to be reasonably available to the public, such documents need not be produced or marked for identification, but may be offered for official notice as a public document item by specifying the document or relevant part thereof.

§ 12.123 Ex parte communications.

The hearing examiner shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. No employee or agent of the Federal Government engaged in the investigation and prosecution of this case shall participate or advise in the rendering of the recommended or final decision.

§ 12.124 Oral argument.

Any party shall be entitled upon request to a reasonable period between the close of evidence and termination of the hearing for oral argument. Oral argument shall be included in the official transcript of the hearing.

§ 12.125 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any exhibits, briefs, or memoranda of law filed therewith, shall be filed with the hearing examiner. Transcripts of testimony may be obtained from the official reporter by the parties and the public at rates not to exceed the applicable rates fixed by the contract between the Department and the reporter unless distribution is limited by order of the hearing examiner

for good cause shown. Upon notice to all parties, the hearing examiner may authorize such corrections to the transcript as are necessary to reflect accurately the testimony.

§ 12.126 Summary judgment.

(a) *For Director.* At any time after the expiration of 14 days from the commencement of the action or after service of a motion for summary judgment by the Respondent, the Director may move the hearing examiner with or without supporting affidavits for a summary judgment in his favor upon all claims or any part thereof.

(b) *For Respondent.* The Respondent may, at any time after commencement of the action, move the hearing examiner with or without supporting affidavits for a summary judgment in his favor as to all claims or any part thereof.

(c) *Other parties.* Any other party to a formal proceeding under this part may support or oppose motions for summary judgment made by the Director or Respondent, in accordance with this section, but may not move for a summary judgment in his own behalf.

(d) *Motion and proceedings thereon.* The motion for summary judgment shall be served upon all parties and filed with the hearing examiner or, if no hearing examiner has been designated, with the Under Secretary, at least 15 days before the time fixed for any hearing on the motion. The adverse party or parties may serve opposing affidavits prior to the day of any hearing on the motion. The judgment sought shall be rendered forthwith if the notice and answer, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. A summary judgment rendered for or against the Director or the Respondent shall constitute the hearing examiner's findings and recommendations to the Under Secretary on the issues involved. Hearings on motion made under this section shall be scheduled by the hearing examiner, or the Under Secretary.

(e) *Case not fully adjudicated on motion.* If on motion under this section judgment is not rendered upon the whole case for all the relief asked and a final hearing is necessary, the hearing examiner shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which relief is not in controversy, and directing such further proceedings as are just. At the hearing on the merits, the facts so specified shall be deemed established, and the final hearing shall be conducted accordingly.

(f) *Form of affidavits; further testimony; defense required.* Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The hearing examiner may permit affidavits to be supplemented or opposed by depositions or further affidavits. When a motion for summary judgment is made and supported as provided in this section, an adverse party may not rest upon the mere allegations or denials in his notice or answer, but his response, by affidavit or as otherwise provided in this section, must set forth specific facts showing there is a genuine issue for final hearing. If he does not so respond, summary judgment, if appropriate, shall be rendered against him.

(g) *When affidavits are unavailable.* Should it appear from the affidavits of a party opposing the motion that he cannot for the reasons stated present by affidavit facts essential to justify his opposition, the hearing examiner may refuse the application for summary judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or make such other orders as are just.

(h) *Affidavits made in bad faith.* Should it appear to the satisfaction of the hearing examiner at any time that any of the affidavits presented pursuant to this section are presented in bad faith or solely for the purpose of delay, the hearing examiner may make such orders and impose such sanctions as may be appropriate against the offending party.

§ 12.127 Proposed findings of fact and conclusions.

Within 20 days after receipt of the transcript of the testimony, each party and amicus may file a brief with the hearing examiner. Such briefs shall be served simultaneously on all parties and amici, and a certificate of service shall be furnished to the hearing examiner. Requests for additional time in which to file a brief shall be made to the hearing examiner, in writing, and copies shall be served simultaneously on the other parties. Requests for extensions shall be received not later than 3 days before the date such briefs are due. No reply brief may be filed except by special permission of the hearing examiner.

§ 12.128 Record for recommended decision.

The transcript of testimony, exhibits, and all papers, documents, and requests filed in the proceedings, including briefs, but except the correspondence section of the docket, shall constitute the record for decision.

§ 12.129 Recommended decision.

Within 20 days after the filing of briefs, or, if the parties elect not to file such documents, not more than 20 days after the close of the hearing, the hearing examiner shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record for recommended decision, to the Under Secretary for his decision. The recommended findings, conclusions, and decisions shall be served on all parties and amici to the proceeding.

§ 12.130 Exceptions to recommended decisions.

Within 14 days after receipt of the hearing examiner's recommended findings, conclusions, and decision, any party may submit exceptions to said recommendation. These exceptions may be responded to by other parties within 10 days of their receipt by said parties. All exceptions and responses shall be filed with the Under Secretary. Service of such briefs or exceptions and responses thereto shall be made simultaneously on all parties to the proceeding, and a certificate of service shall be furnished to the Under Secretary. Requests to the Under Secretary for additional time in which to file exceptions and responses thereto shall be served simultaneously on other parties. Requests for extensions must be received no later than 3 days before the exceptions are due.

§ 12.131 Record for final Treasury Department decision.

The record for the Treasury Department final decision shall consist of the record for recommended decision, the rulings and recommended decision of the hearing examiner, and the exceptions and briefs filed subsequent to the hearing examiner's decision.

§ 12.132 Final Treasury Department decision.

After expiration of the time for filing briefs and exceptions, the Under Secretary or higher Treasury Department official shall make a decision for the Department on the basis of the record. This decision shall be final upon the approval of the Director, Office of Federal Contract Compliance, Department of Labor. A copy of the final Treasury Department decision shall be served on all parties and amici to the proceeding.

§ 12.133 Submission of final Treasury Department decision to FOCC.

The Under Secretary shall submit the proposed final Treasury Department decision to the Director, Office of Federal Contract Compliance, Department of Labor, for approval.

[FR Doc.75-28431 Filed 10-21-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE

Proposed Endangered Status for 216 Species Appearing on Convention on International Trade; Correction

In FR Doc. 75-25479 appearing at page 44329, in the issue of September 26, 1975, in the paragraph headed "Submittal of Written Comments," the date reading

October 28, 1975, should read November 24, 1975.

Dated: October 16, 1975.

LYNN A. GREENWALT,
Director
Fish and Wildlife Service.

[FR Doc.75-28372 Filed 10-21-75;8:45 am]

MISSISSIPPI SANDHILL CRANE

Determining Critical Habitat; Extension of Comment Period

This notice extends the period for comments to the proposal, published September 3, 1975 (40 FR 40521), determining critical habitat for the Mississippi sandhill crane, an endangered species.

The Fish and Wildlife Service has decided that this extension will allow persons affected by the proposed regulations additional comment time, as requested, and enable the Service to receive as broad a range of responses as possible. The comment period is hereby extended to October 31, 1975.

Dated: October 17, 1975.

KEITH M. SCHREINER,
Acting Director,
Fish and Wildlife Service.

[FR Doc.75-28467 Filed 10-21-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 971]

LETTUCE GROWN IN LOWER RIO GRANDE VALLEY IN SOUTH TEXAS

Notice of Proposed Handling Regulation

This proposal, designed to promote the orderly marketing of lettuce grown in the Lower Rio Grande Valley in South Texas, would impose pack, container and inspection requirements to standardize the pack of lettuce to be shipped to consumers.

Consideration is being given to the issuance of a handling regulation, hereinafter set forth, which was unanimously recommended by the South Texas Lettuce Committee. The committee has been established pursuant to Marketing Agreement No. 144 and Marketing Order No. 971 (7 CFR Part 971) which regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

This proposal is in accord with the committee's recommendations and marketing policy and reflects its appraisal of the 1975-76 crop of lettuce in the Lower Valley and marketing prospects for the season.

The South Texas lettuce industry as well as other lettuce shipping areas are accustomed to operating on a six day shipping week. The experience has been that a six day shipping week is adequate for five days distribution in terminal markets. Therefore, proposed "packaging holidays" on Sundays and Christmas Day would promote more orderly marketing.

The proposed pack and container requirements are in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and will prevent deceptive practices.

No purpose would be served by regulating the pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore quantities up to two cartons of lettuce per day would be exempt from such requirements.

Proposed provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for other than commercial channels of domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers can utilize lettuce which fails to meet the pack and container regulations. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted provided certain safeguard requirements are met.

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same in duplicate with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than November 6, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposal is as follows:

§ 971.316 Handling regulation.

During the period November 24, 1975, through March 31, 1976, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b), (c), and (d) of this section, or unless such lettuce is handled in accordance with paragraphs (e) or (f) of this section. Further, no person may package lettuce during the above period on any Sunday or on Christmas Day.

(a) [Reserved]

(b) *Pack.* (1) Lettuce heads, packed in container Nos. 7303, 7306, or 7313, if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 85-40 may be packed only 24 or 30 heads per container.

(c) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches x 14¼ inches x 21$^{5}/_{16}$ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches x 14 inches x 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches x 9¾ inches x 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10¾ inches x 16⅛ inches x 21½ inches (designated as carrier container No. 85-40—flat pack).

(d) *Inspection.* (1) No handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued with respect thereto, except when relieved of such requirement pursuant to paragraphs (e) or (f) of this section.

(2) No handler may transport, or cause the transportation of, any shipment of lettuce by motor vehicle for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI-23) furnished by the inspection service verifying that such shipment meets the current grade, pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(e) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons of lettuce a day without regard to inspection, assessment, grade, and pack requirements. This exception may not be applied to any shipment of over two cartons of lettuce.

(f) *Special purpose shipments.* The pack, container, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if, prior to handing, the handler pursuant to §§ 971.120-971.125 obtains a Certificate of Privilege applicable thereto and reports thereon; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it only in a vehicle bearing Mexican registration (license).

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

Dated: October 16, 1975.

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

[FR Doc.75-28392 Filed 10-21-75;8:45 am]

Animal and Plant Health Inspection Service

[9 CFR Part 73]

SCABIES IN CATTLE

Proposed Waiver of Claims

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 73, Title 9, Code of Federal Regulations to provide for waiver of claims of future liability against the United States when cattle are dipped or otherwise treated with a permitted dip for scabies under Veterinary Services supervision or control.

Statement of considerations. Cattle which are affected with or have been exposed to cattle scabies are routinely treated with a permitted dip as an eradication procedure, and are required to be so treated under Veterinary Services supervision or control as a requirement for interstate movement. Occasionally losses attributed to such treatment are claimed by owners of cattle so treated. When cattle are treated for ticks under applicable provisions of Part 72, a waiver of such claims by the owner or his agent is required at the time service is applied for.

In order that uniform procedure may be used each time a permitted dip is used under the supervision or control of Veterinary Services, a similar waiver provision would be added to the regulations in Part 73.

Accordingly, Part 73, Title 9, Code of Federal Regulations, would be amended in the following respects:

A new § 73.9 would be added to read:

§ 73.9 Owners assume responsibility; must execute agreement prior to dipping or treatment waiving all claims against United States.

When the cattle are to be dipped under Veterinary Services supervision or control, the owner of the cattle offered for shipment, or his agent duly authorized thereto, shall first execute and deliver to a Veterinary Services inspector an application for inspection and supervised dipping wherein he shall agree to waive all claims against the United States for any loss or damage to said cattle occasioned by or resulting from dipping or other treatment under this part, or resulting from any subsequent treatment prior to their interstate shipment, or resulting from the fact that they are later found to be still scabies infested, and also for all subsequent loss or damage to any other cattle in the possession or control of such owner which may come into contact with the cattle so dipped or treated.

Any person who wishes to submit written data, views or arguments concerning this proposed amendment may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782, before November 24, 1975.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

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

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc.75-28393 Filed 10-21-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 116c]

EDUCATIONALLY DEPRIVED CHILDREN

Grants to State Agencies for Programs To Meet the Special Educational Needs of Children in Institutions for Neglected or Delinquent Children

In accordance with section 503 of the Education Amendments of 1972 (Pub. L. 92-318) and pursuant to the authority contained in section 123 of Title I of the Elementary and Secondary Education Act (20 U.S.C. 241c-3) as enacted by Pub. L. 93-380, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Title 45 of the Code of Federal Regulations by adding a new Part 116c to read as set forth below.

At present there are no guidelines related to Part 116c. Should such guidelines be issued in the future, they will be published in the FEDERAL REGISTER and will be limited to material in the nature of suggestions or recommended courses of action for meeting certain mandatory requirements set forth in the regulations.

1. *Program purposes; Amendments made by Pub. L. 93-380:*

Part 116c as set forth in this notice of proposed rulemaking contains those provisions which are applicable to grants to State agencies under section 123 of Title I of the Act for programs for neglected or delinquent children. Provisions of regulations previously published as permanent regulations in Part 116 governing grants to State agencies for neglected or delinquent children have been separated from the provisions for grants to other agencies and are now contained in proposed Part 116c. This new part also reflects new statutory provisions enacted by Pub. L. 93-380 pertaining to programs for neglected or delinquent children, as well as provisions previously stated in guidelines and instructions for application. The only significant change enacted by Pub. L. 93-380 is the change in payment rate (from 50 percent to 40 percent) in the applicable funding formula, and the 100 percent "floor" provision in section 125 of Title I as enacted by Pub. L. 93-380. The "floor" provision applies to each State agency eligible for a grant under this part.

2. *Effect of Office of Education General Provisions Regulations.*

Assistance provided under this part is also subject to applicable provisions contained in the overall Office of Education General Provisions Regulations, published in the FEDERAL REGISTER in 38 FR 30654 (November 6, 1973), and now set forth in 45 CFR Parts 100-100c, in connection with the same study under section 503 of the Education Amendments of 1972 of which this publication is a part. 45 CFR Parts 100-100c relate to fiscal, administrative, and property management, monitoring and reporting of program performance, accountability for Federal funds, and other matters.

3. *Effect of Part 116.*

A new Part 116, published in the FEDERAL REGISTER as a notice of proposed rulemaking on March 11, 1975 (40 FR 11472) sets forth general requirements applicable to all programs funded under Title I of the Act, including grants to State agencies for programs for neglected or delinquent children. The provisions contained in Part 116 which apply to the latter programs are: Subpart B, pertaining to the duties and functions of State educational agencies (including the requirements of section 434(b)(1) of the General Education Provisions Act for a general application and an annual program plan); Subpart C, requirements governing payments to State educational agencies and sub-grantees (including maintenance of effort and withholding of payments by the Commissioner for failure to comply with assurances); planning grants (§ 116.29); prohibition against supplanting of State and local funds and providing services which the applicant agency is required by law to provide (§ 116.30); the relation of Title I projects to other programs (§ 116.31); the use of education aides (§ 116.32); measurement of educational achievement and evaluation of programs (§ 116.33); dissemination and utilization of results of educational research and demonstrations (§ 116.34); public information (§ 116.35); administrative control of Title I property (§ 116.36); construction and equipment (§ 116.38); reports by applicant agencies (§ 116.39); staffing for program and projects (§ 116.41); and training (§ 116.42).

It should be noted that, pursuant to section 403(6)(B) of Pub. L. 81-874 (64 Stat. 1108) a State agency directly responsible for providing free public education for children in institutions for neglected or delinquent children is, except as specifically provided therein, included in the definition of "local educational agency" for purposes of Title I. Therefore, many of the Title I provisions

referred to in the preceding paragraph which by the terms of the enabling statute are applicable to "local educational agencies" apply not only to grants to local educational agencies for projects in areas having high concentrations of children from low-income families, but also to grants to State agencies for programs for neglected or delinquent children under Part 116c.

4. *New and clarified provisions.*

The significant new and clarified provisions in this part are as follows:

(a) Section 116c.2 defines key terms particularly applicable to programs under this Part.

(b) Section 116c.3 defines the grant which a State agency is eligible to receive in terms of the applicable statutory formula as revised by Pub. L. 93-380.

(c) Section 116c.12 contains an expanded statement of the program description to be included in each State agency's application, including the required needs assessment.

(d) Section 116c.13 expands and clarifies the criteria for approval of State educational agency applications.

5. *Citations of legal authority.*

As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations and guidelines has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case, the citation applies to all that appears in that section between that citation and the immediately preceding citation. When the citation appears only at the end of the section, it applies to the entire section.

6. *Opportunity for public hearing.*

Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations, as follows:

A hearing will take place at the U.S. Office of Education on December 4, 1975 in the auditorium of Regional Office Building Three (ROB-3) located at 7th and D Streets, SW., Washington, D.C., beginning at 10 a.m. The purpose of the hearing is to receive comments and suggestions on the published materials.

Parties interested in attending the hearing should notify the Office of Education, 400 Maryland Avenue, S.W., Attention: Chairman, Office of Education Task Force on section 503, and are urged to submit a written copy of their comments with such notification. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

Written comments and recommendations may also be sent to the above address. All relevant material received prior to the date of the hearing will be considered. Comments and suggestions submitted in writing will be available for review in the above office between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week.

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.

(Catalog of Federal Domestic Assistance 13.431, Educationally Deprived Children in State Institutions Serving Neglected or Delinquent Children)

Dated: August 14, 1975.

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

Approved: October 14, 1975.

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

Subpart A—General

Sec.
116c.1 Applicability.
116c.2 Definitions.

Subpart B—Amounts Available for Grants and Payments

116c.3 Grant which a State agency is eligible to receive.
116c.4 Amounts available for grants.

Subpart C—Program Requirements

116c.11 Applications.
116c.12 Program descriptions.
116c.13 Criteria for the approval of applications.

AUTHORITY: Sec. 101(a)(2)(E), Pub. L. 93-380, 88 Stat. 494 (20 U.S.C. 241c-3), unless otherwise noted.

Subpart A—General

§ 116c.1 Applicability.

(a) *Scope.* The regulations in this part govern programs and projects for which funds are provided to State agencies under Title I of the Elementary and Secondary Education Act of 1965 as amended, to meet the special educational needs of children in institutions for neglected or delinquent children or children in adult correctional institutions for whom a State agency is directly responsible for providing free public education.

(b) *Other applicable provisions.* Assistance provided under this part is subject to applicable provisions contained in Part 116 (general requirements relating to Title I of the Act) and Part 100b of this chapter relating to fiscal, administrative, property management, and other matters.

(20 U.S.C. 241c-3)

§ 116c.2 Definitions.

"Adult correctional institution" means a residential institution in which persons above and below the age of 21 are confined as a result of having been adjudicated to be delinquent or having been convicted of a criminal offense.

(20 U.S.C. 241c-3)

"Average daily attendance", in the case of children in institutions for neglected or delinquent children or in adult correctional institutions, means the average number of such children under 21 years of age (for whom the applicant State agency is directly responsible under State law for providing free public education) who participated on a daily basis in schools operated or supported by that agency, (including schools providing education for these children under contract or other arrangement with the agency), during the latest completed school year in an organized program of instruction:

(i) Supported by State funds, and

(ii) Recognized under State law as furnishing elementary and secondary education, but not beyond grade 12.

(20 U.S.C. 241c-3, 244(4), 244(10))

"An institution for delinquent children" means a public or private nonprofit residential facility operated primarily for the care of children who have been adjudicated to be delinquent and for whom the average length of stay is at least 30 days.

(20 U.S.C. 241c-3)

"An institution for neglected children" means a public or private non-profit residential facility (other than a foster home) which is operated primarily for the care of, for at least 30 days, children who have been committed to the institution, or voluntarily placed in the institution, and for whom the institution has assumed or been granted custodial responsibility pursuant to applicable State law, because of the abandonment by, neglect by, or death of, parents or persons acting in the place of parents.

(20 U.S.C. 241c-3)

"State agency" means an agency of State government which under State law has been given direct responsibility for the free public education for children in institutions for neglected or delinquent children or in adult correctional institutions. This education may be provided in schools operated or supported by the agency or in schools under contract or other arrangement with that agency. The term does not include an agency whose responsibility for these children is limited to the distribution of State financial assistance to other agencies which, under State law, have been given direct responsibility for free public education for these children.

(20 U.S.C. 241c-3)

Subpart B—Amounts Available for Grants and Payments

§ 116c.3 Grant which a State agency is eligible to receive.

(a) The amount which a State agency other than the State agency for Puerto Rico shall be eligible to receive under this part for any fiscal year shall be determined in accordance with the provisions of sections 123, 124, and 125 of Title I of the Act.

(b) The amount available for a State agency in Puerto Rico shall be determined in accordance with sections 123 and 125 of Title I of the Act, and section 843 of Pub. L. 93-380.

(c) Any child who is counted in average daily attendance for the purpose of computing an allocation under the provisions of Part 116b of this chapter may not be counted for the purpose of com-

puting an allocation under the provisions of this part.

(20 U.S.C. 241c-3)

§ 116c.4 Amounts available for grants.

The State educational agency shall notify each State agency of the amount available to it under § 116c.3 and from that amount shall make funds available to the State agency equal to the cost of programs and projects approved by the State educational agency in accordance with the procedure prescribed by Subpart C of this part. The amount made available to a State agency under this section shall not exceed the amount the agency is entitled to receive under § 116c.3.

(20 U.S.C. 241c-3, 241g(a))

Subpart C—Program Requirements

§ 116c.11 Applications.

A State agency of any State may apply to the State educational agency for a grant or grants of Federal funds under this Part in the amount authorized by §§ 116c.3 and 116c.4.

(20 U.S.C. 241c-3, 241e(a), 244(6)(B))

§ 116c.12 Program descriptions.

Each application by a State agency under this part shall set forth a program for instruction designed to meet the special educational needs of children in institutions for neglected or delinquent children or in adult correctional institutions. The application shall contain:

(a) An identification of each institution in which children to be provided with services under this part reside, the number of such children, and the approximate ages of the youngest and oldest such children in each such institution;

(b) A statement of functions of each institution so identified, a description of the educational program being carried out for children in such institutions with State funds and other Federal funds, and the average length of stay of the children in each such institution;

(c) The results of a needs assessment of the children receiving free public education in each such institution. This needs assessment shall be based on the best available data concerning the needs of the children particularly as indicated by objective measures of educational deficiency in reading, written communication, and mathematics. The application shall contain a statement of the priority of those needs as determined by the State agency;

(d) A statement of the objectives of the proposed program, the related performance criteria, and the procedures and instruments by which the effectiveness of the program will be evaluated in accordance with § 116.33 of Part 116;

(e) A description of each service to be provided as a means of accomplishing the stated objectives of the program, the estimated number of children to be served by age and anticipated grade placement, a description of any inservice training (including the type of training, frequency, and number and type of staff members who will participate in that training), and, for each institution, the type and number of staff to be employed;

(f) A budget based on categories of expenditure prescribed by the State educational agency with appropriate detail by service and by institution;

(g) A description of the use that will be made of any school facilities constructed or to be constructed with funds under this part including the use that will be made of these facilities in providing the services set forth in the application;

(h) A list by type and location of equipment purchased or to be purchased with funds under this part and a designation by type of the equipment to be used in providing the proposed services as described in the application.

(20 U.S.C. 241c-3, 241e(a)(6))

§ 116c.13 Criteria for the approval of applications.

The State educational agency shall approve an application from a State agency under this part only upon a determination that it contains the information required by § 116c.12, and demonstrates compliance with all other requirements in this part and the applicable requirements of Parts 100b and 116, and demonstrates that:

(a) The State agency has made a needs assessment as required by § 116c.12(c);

(b) The services to be provided are tailored towards meeting one or more of the special educational needs as identified pursuant to § 116c.12(c), and show reasonable promise of meeting the special educational needs of the children to be served, particularly with respect to improvements in educational performance in the basic skills of reading, oral and written communication, and mathematics;

(c) The program proposed by the application is of sufficient size, scope and quality to give substantial promise of meeting these needs;

(d) The services to be provided are not available from funds other than those authorized under Title I of the Act.

(20 U.S.C. 241c-3, 241e(a), 244(6)(B))

[FR Doc.75-28402 Filed 10-21-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 157]

TANK VESSELS CARRYING OIL IN DOMESTIC TRADE

Proposed Amendment to Regulations for Protection of the Marine Environment

Correction

In FR Doc. 75-27229 appearing at page 48289 of the issue for Tuesday, October 14, 1975, in the list of terms to the formula given in Appendix C, page 48290, the third term, now reading "I_t", should read "l_t".

DEPARTMENT OF LABOR

Office of the Secretary

[41 CFR Part 50-250]

DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

Affirmative Action Obligations of Contractors and Subcontractors

On December 3, 1974, Congress enacted the Vietnam Era Veteran's Readjustment Assistance Act of 1974, which amends the Vietnam Era Veteran's Readjustment Assistance Act of 1972. The amendments augment the mandatory job listing requirement for government contractors in the 1972 Act by requiring government contractors to take affirmative action to employ and advance in employment disabled veterans and veterans of the Vietnam era. Contractors continue to be required to list all their job openings with appropriate state employment services and to file quarterly reports regarding their employment of disabled veterans and veterans of the Vietnam era. The amended Act also raises the jurisdictional amount of covered contracts to $10,000. Responsibility for administration and enforcement of § 402 of the Act is delegated to the Department of Labor.

To implement the amendments contained in the 1974 Act, the Department of Labor is proposing the following amendments to 41 CFR Part 50-250. Proposed amendments were published earlier, on February 18, 1975, (40 FR 6982) regarding the mandatory listing requirement and jurisdictional amount. The Department has determined that contractors and veterans should have an opportunity to review the entire mandatory listing and affirmative action provisions together before final regulations are published. These proposed regulations implementing the Vietnam Era Veterans Readjustment Assistance Act of 1974 are substantially similar to proposed regulations to amend 20 CFR 741, implementing section 503 of the Rehabitation Act of 1973. Since 20 CFR 741 is applicable to all individuals, both veterans and nonveterans, those regulations are applicable to a number of the persons also covered under this proposed 41 CFR Part 50-250, but will not be applicable to veterans generally. Some of those provisions, therefore, were not repeated in this proposal because they do not relate to or have particular significance for veterans. For example, this proposal does not repeat the suggestion contained in the proposed 20 CFR 741 that contractors use photographs of handicapped persons in their brochures and advertising, since veterans would not be identifiable as such in photographs, but handicapped persons are clearly identifiable. For similar reasons, this proposal does not repeat the suggestion that contractors participate in high school career days, since high school students who are handicapped are not likely to be disabled veterans. Thus where there are distinctions between the two regulations, it is in recognition of a somewhat different universe served by

each statute. Accordingly, this proposed regulation:

1. Adds definitions of disabled veterans and veterans of the Vietnam era. Although it is not expected to occur often, it is possible that the different statutory definitions of disabled veteran and handicapped individual could result in disabled veterans being covered under one act but not the other, depending upon the nature of the disability and the percentage of disability;

2. Expands the affirmative action clause to incorporate the mandatory listing requirements originally published in the Manpower Administration's proposed regulations on February 18, 1975 (40 FR 6982);

3. Incorporates particular affirmative action steps applicable to recruiting disabled veterans and veterans of the Vietnam era;

4. Limits the uses for which an employer may consider a covered veteran's military papers to those which are job related;

5. Specifies in accordance with the Vietnam Era Veterans' Readjustment Assistant Act of 1974 that veterans' complaints shall be filed with the Veterans' Employment Service;

6. Requires State employment services to give veterans priority in referral in accordance with 38 USC 2012; and

7. Requires contractors to retain at each establishment records of jobs listed with State employment services and to file quarterly reports regarding their employment practices.

In addition, this proposal differs from the existing mandatory listing regulations at 41 CFR Part 50-250 and the proposal of February 18, 1975 by covering subcontractors below the first tier, and by omitting the section in the original proposal to require Federal departments and agencies to list their job openings. That section will be republished separately. The change in first-tier-coverage is based upon the legislative history, which specifically states that all subcontractors are intended to be covered. See Cong. Rec., Oct. 11, 1974, S19037.

Interested persons are invited to comment upon this proposed rulemaking by submitting written data, views, or arguments to Mr. Bernard E. DeLury, Assistant Secretary for Employment Standards, U.S. Department of Labor, Washington, D.C. on or before December 8, 1975. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

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50-250.55 Effective date.

AUTHORITY: Sec. 503(a), Pub. L. 92-540, 86 Stat. 1097 (30 U.S.C. 2012), as amended by sec. 402, Pub. Law 93-508, 88 Stat. 1593 (38 U.S.C. 2012).

Subpart A—Preliminary Matters, Affirmative Action Clause, Compliance

§ 50-250.1 Purpose and application.

The purpose of the regulations in this part is to assure compliance with section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974, which requires government contractors and subcontractors to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. The regulations in this part apply to all government contracts for personal property or nonpersonal services (including construction) in excess of $10,000.

§ 50-250.2 Definitions.

"Act" means the Vietnam Era Veterans Readjustment Assistance Act of 1974, Pub. L. 93-508, as it amends 38 U.S.C. 2012, the Vietnam Era Veterans Readjustment Assistance Act of 1972.

"Affirmative action clause" means the contract provisions set forth in § 50-250.3.

"Agency" means any contracting and/or compliance agency of the government.

"Assistant Secretary" means the Assistant Secretary of Labor for Employment Standards or his designee.

"Compliance agency" means the agency selected by the Assistant Secretary on a geographical, industry or other basis to conduct investigations at the request of the Assistant Secretary and to undertake such other responsibilities in connection with the administration of the Act as the Assistant Secretary may request, as appropriate, including the responsibility to insure that contractors are fully cognizant of their obligations under the Act and this part and to provide the Assistant Secretary with any information which comes to its attention that the contractor is not in compliance with the Act or this part.

"Construction work" means the construction, rehabilitation, alternation, conversion, extension, demolition, or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

"Contract" means any government contract for the procurement of personal property or non-personal services, including construction.

"Contracting agency" means any department, agency, establishment or instrumentality of the United States, including any wholly owned government corporation, which enters into contracts.

"Contractor" means, unless otherwise indicated, a prime contractor or subcontractor.

"Disabled veteran" means a person entitled to disability compensation under laws administered by the Veterans' Administration for a disability rated at 30 per centum of more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

"Employment Standards Administration" means the Employment Standards Administration of the United States Department of Labor, its regional and area offices and any division, branch or bureau thereof engaged in activities under this regulation.

"Government" means the Government of the United States of America.

"Government contract" means any agreement or modification thereof between any contracting agency and any person for the furnishing of personal property or non-personal services, including lease arrangements. The term "services", as used in this section includes, but is not limited to the following services: utility, construction, transportation, research, insurance, and fund depository, irrespective of whether the government is the purchaser or seller. The term "government contract" does not include (1) agreements in which the parties stand in the relationship of employer and employee, and (2) Federally-assisted contracts.

"Modification" means any alteration in the terms and conditions of a contract, including supplemental agreements, amendments, and extensions.

"Person" means any natural person, corporation, partnership or joint venture, unincorporated association, State or local government, and any agency, instrumentality, or subdivision of such a government.

"Prime contractor" means any person holding a contract, and for the purposes of Subpart B of this part, any person who has held a contract subject to the Act.

"Procurement activity" means the organizational element of a federal agency which has responsibility to contract for the procurement of personal property or non-personal services, including construction.

"Qualified disabled veteran" means a disabled veteran as defined in 50–250.2 who is capable of performing a particular job, with reasonable accommodation to his disability, at the minimum acceptable level of productivity applicable to a nondisabled incumbent employee.

"Recruiting and training agency" means any person who refers workers to any contractor or subcontractor, or who provides or supervises apprenticeship or training for employment by any contractor or subcontractor.

"Rules, regulations, and relevant orders of the Secretary of Labor" used in paragraph (d) of the affirmative action clause means rules, regulations, and relevant orders of the Secretary of Labor or his designee issued pursuant to the Act.

"Secretary" means the Secretary of Labor, U.S. Department of Labor, or his designee.

"Subcontract" means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an employee):

(1) For the furnishing of supplies or services or for the use of real or personal property, including lease arrangements, which, in whole or in part, is necessary to the performance of any one or more contracts; or

(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.

"Subcontractor" means any person holding a subcontract and, for the purpose of Subpart B of this part, any person who has held a subcontract subject to the Act.

"United States" as used herein shall include the several States, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, the Panama Canal Zone, American Samoa and the Trust Territory of the Pacific Islands.

"Veteran of the Vietnam era" means a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era, and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era, and (2) who was so discharged or released within 48 months preceding his application for employment covered under the Act.

§ 50–250.3 Affirmative action clause.

Each agency shall include the following affirmative action clause in each of its nonexempt Government contracts (and modifications, renewals, or extensions thereof if not included in the original contract):

AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA

(a) The contractor will not discriminate against any employee or applicant for employment because he is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(b) The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required. State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive Orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of non-disabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each establishment copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer or of the Secretary of Labor.

(e) Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) This clause does not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(h) As used in this clause:

(1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings as are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(i) The contractor agrees that, if it has established an internal review procedure and a disabled veteran or veteran of the Vietnam era files a complaint with the contractor under that procedure that it is not complying with the requirements of the Act, it will (1) investigate the complaint and take appropriate action consistent with the requirements of 41 CFR 50–250.27 and (2) maintain on file for 3 years the record regarding the complaint and the actions taken.

(j) The contractor agrees that, if a disabled veteran or veteran of the Vietnam era files a complaint with the Department of Labor that the contractor has not complied with the requirements of the Act, (1) the contractor will cooperate with the Department in its investigation of the complaint, and (2) will provide all pertinent information regarding its employment practices with respect to disabled veterans and veterans of the Vietnam era.

(k) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor in this part.

(l) In the event of the contractor's noncompliance with the requirements of this clause, the contractor may be declared in default and sanctions may be imposed in accordance with 41 CFR, Part 50–250.

(m) The contractor agrees to include this clause in all subcontracts of $10,000 or more, and at the request of the State employment service or the Assistant Secretary to identify all subcontractors.

(n) The contractor agrees to permit the examination by appropriate agency officials and the Assistant Secretary for Employment Standards or his designee, of pertinent books, documents, papers and records concerning his employment and advancement of disabled veterans and veterans of the Vietnam era.

(o) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, in a form to be prescribed by the Assistant Secretary for Employment Standards and provided by the contracting officer, notices stating the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era, and the rights and remedies available.

(p) The contractor will notify each labor union or representative of workers with which he has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative action to employ and advance in employment disabled veterans and veterans of the Vietnam era.

§ 50–250.4 Affirmative action program.

(a) Within 120 days of the commencement of a contract every government contractor or subcontractor holding a contract of $50,000 or more and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment, which shall be kept separate and distinct from any affirmative action program required under any other law, and which shall set forth the policies, practices and procedures by which the contractor intends to implement the obligations created by this part. The contractor shall inform incumbent and newly hired employees of the existence of the program, and shall disseminate to them a summary of the program, which shall contain but shall not be limited to: (1) the name of the local official designated responsibility for compliance, (2) the rights and duties created under the Act, (3) a reaffirmation of the contractor's basic policy with regard to disabled veterans and veterans of the Vietnam era, (4) and a description of the steps the contractor expects to take to comply with the Act, including recruitment and promotion. The summary should also provide some examples of accommodations which may be necessary to employ disabled veterans, and in which the employees' cooperation is sought. The affirmative action plan shall be reviewed and updated annually.

(b) If there are any significant changes in procedures, rights or benefits as a result of the annual updating, those changes shall be communicated to employees and applicants for employment.

(c) The full affirmative action plan shall be available for inspection by any employee or applicant for employment upon request. The location and hours during which the program may be obtained shall be posted at each facility.

§ 50–250.5 Affirmative action policy, practices and procedures.

(a) *General requirements.* Under the affirmative action to employ and advance the Act, contractors are required to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era. Such action shall apply to employment practices, including, but not limited to the following: Job listing, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) Outreach and positive recruitment. Contractors shall review their employment practices to determine whether their personnel programs provide the required affirmative action for employment and advancement of qualified disabled veterans and veterans of the Vietnam era. Based upon the findings of such reviews, contractors shall undertake appropriate outreach and positive recruitment activities, such as those listed below. It is not contemplated that contractors will necessarily undertake all the listed activities or that their activities will be limited to those listed. The scope of a contractor's efforts shall depend upon all the circumstances, including the extent to which existing employment practices are adequate and the contractor's size and resources.

(1) Internal communication of the contractor's obligation to engage in affirmative action efforts to employ qualified disabled veterans and veterans of the Vietnam era in such a manner as to foster understanding, acceptance and support among the contractor's executive, management, supervisory and all other employees and to encourage such persons to take the necessary action to aid the contractor in meeting this obligation.

(2) Development of reasonable internal procedures to insure that the contractor's obligation to engage in affirmative action to employ and promote qualified disabled veterans and veterans of the Vietnam era is being fully implemented.

(3) Periodically informing all employees of the contractor's commitment to engage in affirmative action to increase employment opportunities for qualified disabled veterans and veterans of the Vietnam era.

(4) Enlisting the assistance and support of all recruiting sources including as follows:

(i) Consult with the local Veterans Employment Representative in the State Employment Service Office nearest each establishment where hiring takes place to develop on-the-job training opportunities for covered veterans wherever feasible;

(ii) Contact the office of the National Alliance of Businessmen nearest each establishment where hiring takes place in order to cooperate in the Jobs For Veterans' Program;

(iii) Contact the veterans' counselors ("Vet-Reps") on major college campuses for the recruitment of covered veterans;

(iv) Consult with the service officers of the national veterans groups active in the area of each establishment where hiring takes place for the recruitment of covered veterans; and

(v) Contact local veterans' groups and veterans' service centers in the area of each establishment where hiring is performed near major cities, for the recruitment of covered veterans.

(5) Establishment of meaningful contacts with appropriate veterans' service organizations, which service disabled veterans or veterans of the Vietnam era, for such purposes as advice, technical assistance and referral of potential employees. Technical assistance from the resources listed in this paragraph may consist of advice on proper placement, recruitment, training and accommodations contractors may undertake, but no such resource providing technical assistance shall have the authority to approve or disapprove the acceptability of affirmative action programs.

(6) Reviewing employment records to determine the availability of promotable and transferrable qualified disabled veterans and veterans of the Vietnam era presently employed, and to determine whether their present and potential skills are being fully utilized or developed.

(c) Accommodation to physical and mental limitations of disabled veterans. A contractor must, in carrying out his affirmative action program, make a reasonable accommodation to the physical and mental limitations of employees or applicants who are disabled veterans unless the contractor can demonstrate that such an accommodation would impose an undue hardship on the conduct of the contractor's business. Accommodations may take the form, for example, of providing access to the job, job restructuring, acquisition or modification of equipment or devices, or a combination of any of these. Job restructuring may consist, among other things, of realignment of duties, revision of job descriptions or modified and part-time work schedules. The affirmative action program shall express a commitment to consider the general kinds of actions which will constitute accommodations where the circumstances so require. The affirmative action program shall describe the appropriate accommodations the contractor will undertake, where necessary, to provide full access to the employment office or an alternative application process for disabled veterans. The contractor's duty to implement specific accommodations will ordinarily attach to the individual needs of particular applicants or employees as the circumstances arise. In determining the extent of a contractor's accommodation obligations the following factors, among others, may be considered by the Department of Labor or the Agency: (1) business necessity, (2) financial cost and expenses, and (3) resulting personnel problems.

(d) *Proper consideration of qualifications.* Contractors shall review their per-

sonnel processes to determine whether their present procedures assure careful, thorough and systematic consideration of the job qualifications of known disabled veterans and veterans of the Vietnam era for job vacancies filled either by hiring or promotion, and for all training opportunities offered or available. In determining the qualifications of a covered veteran, the contractor shall consider only that portion of the military record relevant to the job for which the applicant was considered. To the extent that it is necessary to modify their personnel procedures, contractors shall include the development of new procedures for this purpose in their affirmative action program required under this Part. These procedures must include the following:

(1) The application or personnel form of each known disabled veteran or veteran of the Vietnam era must be annotated to identify each vacancy for which the veteran was considered, and the form must be quickly retrievable for review by the agency, the Department of Labor and the contractor's personnel officials for use in compliance reviews, complaint investigations and internal compliance activities.

(2) The personnel or application records of each disabled veteran or veteran of the Vietnam era shall include (i) the identification of each promotion for which the veteran was considered, and (ii) the identification of each training program for which the veteran was considered.

(3) In each case where a disabled veteran or veteran of the Vietnam era is rejected for employment, promotion or training a statement of the reasons must be appended to the personnel file or application form. This statement must include a comparison of the qualifications of the disabled veteran or veteran of the Vietnam era and the person(s) selected, as well as a description of the accommodations considered.

(4) Where applicants or employees are selected for hire, promotion or training and the contractor undertakes any accommodation on their behalf, or has previously instituted some accommodation which makes it possible for him to place a disabled veteran on the job, the application form or personnel record shall contain a description of that accommodation.

(e) Physical standards. Whenever the contractor establishes job qualifications which necessitate an inquiry into a disabled veteran's physical condition prior to employment or promotion, there shall be written physical standards for the safe performance of the job. Such inquiries or qualifications must be related to the specific job or jobs for which the individual is being considered, and must be supported by business necessity.

(f) *Compensation.* In offering employment or promotions to disabled veterans, the contractor may not reduce the amount of compensation offered because of any disability income, pension or other benefit the disabled veteran receives from another source.

(g) *Internal dissemination of policy.* A strong outreach program will be ineffective without adequate internal support from supervisory and management personnel and other employees. In order to assure greater employee cooperation and participation in the contractor's efforts, the contractor shall to the extent possible, adopt, implement and disseminate this policy internally as follows:

(1) Include it in the contractor's policy manual.

(2) Publicize it in the company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain the intent of the policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all other employees to discuss policy and explain individual employee responsibilities. In connection therewith, arrange sensitivity sessions with disabled veterans or other handicapped workers and other employees to help non-disabled workers become familiar with disabled workers and open communication among them.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of the contractor's policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to ensure they are nondiscriminatory.

(8) Include articles on accomplishments of disabled veterans and veterans of the Vietnam era in company publications.

(9) Post the policy on company bulletin boards.

(h) *External dissemination of policy.* The contractor shall, to the extent possible, disseminate his policy externally as follows in order to encourage public response to his affirmative action program:

(1) Inform all recruiting sources, including trade schools and colleges, verbally and in writing of company policy, stipulating that these sources actively recruit and refer qualified disabled veterans and veterans of the Vietnam era for positions listed.

(2) Communicate to prospective employees the existence of the contractor's affirmative action program.

(3) Send written notification of company policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

(4) Consider all qualified disabled veterans and veterans of the Vietnam era not currently in the workforce having requisite skills who can be recruited through affirmative action measures.

(i) *Executive responsibility for implementation.* An executive of the contractor shall be appointed as director or manager of company affirmative action activities under these regulations. He or she should be given the necessary top management support and staffing to execute the assignment. His or her identity should appear on all internal and external communications on the company's affirmative action programs. His or her responsibilities should include, but not necessarily be limited to:

(1) Developing policy statements, affirmative action programs, internal and external communication techniques.

(2) Assisting in the identification of problem areas.

(3) Assisting line management in arriving at solutions to problems.

(4) Designing and implementing audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's objectives have been attained.

(5) Serving as liaison between the contractor and enforcement agencies.

(6) Serving as liaison between the contractor and organizations serving disabled veterans and veterans of the Vietnam era.

(7) Keeping management informed of latest developments in the entire affirmative action area.

(8) Determining the need for and developing the means of accommodation for qualified disabled veterans.

(j) *Line responsibility for implementation.* Line responsibilities shall include, but not be limited to, the following:

(1) Assistance in the identification of problem areas and establishment of local and unit objectives.

(2) Active involvement with local organizations such as Paralyzed Veterans of America, Blinded Veterans Association, Disabled American Veterans, etc.

(3) Periodic audit of training programs, hiring and promotion patterns to remove impediments to the attainment of objectives.

(4) Regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed.

(5) Review of the qualifications of disabled veterans to insure that disabled veterans are utilized to the full extent of their abilities and are given full opportunities for transfers and promotions where such movement will enable them to function at their maximum skill level.

(6) Career counseling for all employees.

(7) Periodic audit to insure that each location is in compliance in areas such as:

(i) Proper display of posters.

(ii) Proper adoption, implementation or suggestion of accommodations.

(iii) Provision of full opportunity to disabled veterans with encouragement to participate to the full extent of their abilities in all company sponsored educational, training, recreational and social activities.

(8) Supervisors should be made to understand that their work performance is being evaluated on the basis of their affirmative action efforts and results, as well as other criteria.

(9) It shall be a responsibility of supervisors to take actions to prevent harass-

ment of employees placed through affirmative action efforts.

(k) *Development and execution of affirmative action programs.* (1) The contractor shall conduct a detailed analysis of position descriptions to insure that they accurately reflect position functions, as performed and as they must be performed, and are consistent for the same position from one location to another.

(2) The contractor shall review worker specifications by division, department, location or other organizational unit and by job title using job performance criteria. Special attention should be given to physical or mental ability requirements to assure that they do not discriminate against qualified disabled veterans and are consistent with business necessity. Where such standards exist, they should be documented in terms of legitimate job requirements.

(3) Approved position descriptions and worker specifications, when used by the contractor, shall be made available to all members of management involved in the recruitment, screening, selection, and promotion process. Copies should also be distributed to all recruiting sources.

(4) The contractor shall evaluate the total selection process to insure freedom from stereotyping disabled veterans and veterans of the Vietnam era in a manner which limits their access to all jobs for which they are qualified.

(5) All personnel involved in the recruitment, screening, selection, promotion, disciplinary, and related processes shall be carefully selected and trained to insure elimination of bias in all personnel actions.

(6) Formal briefing sessions should be held, preferably on company premises, with representatives from recruiting sources. Plant tours, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, follow up with sources, and feedback on disposition of applicants.

(7) A special effort should be made to include qualified disabled veterans or veterans of the Vietnam era on the Personnel Relations staff.

(8) Active participation in veterans "job fairs" is desirable. Company representatives so participating should be given authority to make on-the-spot commitments.

(9) Recruiting efforts at all educational institutions should incorporate special efforts to reach disabled veterans and veterans of the Vietnam era.

(10) An effort should be made to participate in workstudy programs with veterans administration rehabilitation facilities which specialize in training or educating disabled veterans.

(11) The contractor should use all available resources to continue or establish on the job training programs.

§ 50–250.6 Determination of disability.

(a) Any disabled veteran filing an administrative complaint with the Employment Standards Administration under this part shall submit with his complaint a copy of his form VAL–5 or its equivalent which indicates his disability and which must be updated within one year prior to filing the complaint. An updated copy may be obtained upon request from the Veterans' Administration.

(b) To assure proper job placement a contractor may require a disabled veteran to provide medical documentation of his disability or, in the alternative, may require the applicant or employee to undergo a physical examination at the contractor's expense.

(c) Any determination of disability required pursuant to paragraph (b) must be for the purpose of affirmative action and proper job placement. Information obtained therefrom shall not be used to exclude an otherwise qualified disabled veteran from employment.

(d) (1) Contractors shall not require disabled veterans or veterans of the Vietnam era to provide data regarding their physical or mental disabilities or history of such disabilities unless such information is job related.

(2) Information obtained concerning disabled veterans shall be kept confidential, except that supervisors and managers may be informed regarding restrictions on the work or duties of disabled veterans, and regarding necessary accommodations.

Subpart B—General Enforcement and Complaint Procedure

§ 50–250.20 Subcontracts.

Each nonexempt prime contractor and subcontractor under a Government contract shall include the affirmative action clause prescribed in § 50–250.8 in each of their nonexempt subcontracts.

§ 50–250.21 Adaptation of language.

Such necessary changes in language may be made to the affirmative action clause (see § 50–250.3) as shall be appropriate to identify properly the parties and their undertakings.

§ 50–250.22 Incorporation by reference.

The affirmative action clause may be incorporated by reference in all Government contracts and subcontracts.

§ 50–25.23 Incorporation by operation of the Act and agency regulations.

By operation of the Act, the affirmative action clause shall be considered to be a part of every contract and subcontract required by the Act and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and subcontracts and whether or not there is a written contract between the agency and the contractor.

§ 50–250.24 Coverage and exemptions.

(a) *General*—(1) *Transactions less than $10,000.* Contracts and subcontracts less than $10,000 are not covered by the Act. No agency, contractor or subcontractor shall procure supplies or services in less than usual quantities to avoid applicability of the affirmative action clause.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to indefinite delivery-type contracts and subcontracts (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the affirmative action clause shall be included unless the procuring activity has reason to believe that the amount to be ordered in any year under such contract will be less than $10,000. The applicability of the affirmative action clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the affirmative action clause shall be applied to such contract whenever the amount of a single order exceeds $10,000. Once the affirmative active clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

(3) *Work outside the United States.* Contracts and subcontracts are exempt from the requirements of the affirmative action clause with regard to work performed outside the United States by employees who were not recruited within the United States.

(4) *Contracts with State or local governments.* The requirements of the affirmative action clause in any contract or subcontract with a State or local government (or any agency, instrumentality or subdivision thereof) shall not be applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract or subcontract.

(5) *Facilities not connected with contracts.* The Assistant Secretary may exempt from the requirements of the affirmative action clause any of a prime contractor's or subcontractor's facilities which he finds to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, provided that he also finds that such an exemption will not interfere with or impede the effectuation of the Act.

(b) *Waivers*—(1) *Specific contracts and classes of contracts.* The head of an agency, with the concurrence of the Assistant Secretary, may waive the application to any contract or subcontract or any part of the affirmative action clause when he deems that special circumstances in the national interest so require. The agency head, with the concurrence of the Assistant Secretary, may also grant such waivers to groups or categories of contacts or subcontracts of the same type where it is (i) in the national interest, (ii) found impracticable to act upon each request individually, and (iii) where such waiver will

substantially contribute to convenience in administration of the Act.

(2) *National security.* Any requirement set forth in these regulations in this part shall not apply to any contract or subcontract whenever the head of the contracting agency determines that such contract or subcontract is essential to the national security and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency will notify the Assistant Secretary in writing within 30 days.

(c) *Withdrawal of waiver.* When a waiver has been granted for any contract or subcontract under this section other than contracts granted waivers under paragraph (b)(2) of this section, the Assistant Secretary may withdraw the waiver for a specific contract or subcontract or group of contracts or subcontracts when in his judgment such action is necessary or appropriate to achieve the purposes of the Act. Such withdrawal shall not apply to contracts or subcontracts awarded prior to the withdrawal, except that in procurements entered into by formal advertising, or the various forms of restricted formal advertising, such withdrawal shall not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of the bids.

§ 50–250.25 Duties of agencies.

(a) *General responsibility.* Each agency shall cooperate with the Assistant Secretary in the performance of his responsibilities under the Act. Such cooperation shall include the responsibility to insure that contractors are fully cognizant of their obligations under the Act and this part and to provide the Assistant Secretary with any information which comes to their attention that contractors are not in compliance with the Act or this part, and take such actions for nonperformance as set forth in section 50–250.31 on contractors as may be ordered by the Assistant Secretary.

(b) *Designation of agency official.* The head of each agency, or his designee, shall identify and submit to the Assistant Secretary the name, address and telephone number of the official within the agency who is primarily responsible for implementation of this program within the Agency.

(c) *Investigations.* Agencies shall conduct investigations of complaints in accordance with the requests of the Assistant Secretary. Where an investigation indicates that the contractor has not complied with the requirements of the Act on this part, responsible efforts shall be made to secure compliance through conciliation and persuasion. Before the contractor or subcontractor can be found to be in compliance, it must make a specific commitment, in writing, to meet the requirements of the Act and this part. The commitment must indicate the precise action to be taken and dates for completion. The time period allowed should be no longer than the minimum period necessary to effect such changes. Upon approval of such commitment by the agency, the contractor may be considered in compliance, on condition that the commitments are faithfully kept. Each contractor shall be advised that the resolution is subject to review by the Assistant Secretary and may be disapproved if he determines that such resolution is not sufficient to achieve compliance. The contractor shall be notified that making such commitments does not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.

§ 50–250.26 Evaluations by the Assistant Secretary.

The Assistant Secretary shall be primarily responsible for undertaking such investigations of complaints and other matters as well as evaluations of agency performance as may be necessary to assure that the purposes of the Act are being effectively carried out.

§ 50–250.27 Complaints.

(a) If any disabled veteran or veteran of the Vietnam era believes any contractor or subcontractor has violated the provisions of the affirmative action clause in his contract with the United States, such veteran may by himself or by an authorized representative, file a complaint. If the veteran is an applicant for employment the complaint should be filed with the Veterans' Employment Service of the Department of Labor through the local State employment service office. If the veteran is an employee of such contractor, the complaint should be filed as prescribed in paragraph (b).

(b)(1) Any disabled veteran or veteran of the Vietnam era presently employed by a contractor may, by himself or by an authorized representative, file with the contractor or subcontractor a written complaint of alleged violation of the affirmative action clause. Where established, contractors and subcontractors shall utilize their internal review procedure, which may be governed by the terms of an applicable collective bargaining agreement generally meeting the requirements of this paragraph, to receive complaints from disabled veterans and veterans of the Vietnam era alleging the employer's failure to promote or advance them in employment or otherwise failing to comply with the Act. Procedures utilized under this paragraph shall provide for fair, expeditious and effective processing of complaints. Actions under these procedures shall be processed to completion within 60 days after the complaint is filed. At the completion of the review and appropriate action thereunder, the employer shall inform the complainant of his right to file a complaint with the Department of Labor if the decision is adverse to the employee. A statement describing the procedures under this subsection shall be disseminated to all employees in an effective manner.

(2) No employee may file an administrative complaint with the Veterans Employment Service of the Department of Labor until the internal review procedure, where available, has been accorded 60 days to resolve the matter.

(3) If a contractor does not have an internal review procedure employees may file administrative complaints directly with the Veterans Employment Service of the Department of Labor through the Local Veterans Employment Representatives. Local Veterans Employment Representatives (LVER's) will assist veterans in preparing complaints and will promptly refer such complaints to the Assistant Secretary for Employment Standards, who shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant consistent with the terms of such contract and the laws and regulations applicable thereto. The LVER's will keep a record of all complaints received and forwarded. The State employment services shall cooperate with the Assistant Secretary in the investigation of any complaint. Such complaint is to be filed not later than 180 days from the date of the alleged violation unless the time for filing is extended by the Assistant Secretary upon good cause shown.

(c) Complaints must be signed by the complainants or their authorized representatives and must contain the following information:

(1) Name and address (including telephone number) of the complainant,

(2) Name and address of the contractor or subcontractor who committed the alleged violation,

(3) A description of the act or acts considered to be a violation,

(4) A brief statement describing the complainant's job skills or training, if any, job experience or other qualifications for the position.

(5) A copy of the veteran's form DD-214, and, where applicable, VAL–5 (or their equivalents) updated within one year prior to the date the complaint is filed.

(6) Other pertinent information available which will assist in the investigation and resolution of the complaint, including the name of any known Federal agency with which the employer has contracted.

(d) Where a complaint contains incomplete information, the compliance agency or the Assistant Secretary shall promptly seek the needed information from the complainant. In the event such information is not furnished to the agency or the Assistant Secretary within 60 days of the date of such request, the case may be closed, except for good cause shown.

(f) Upon final resolution of a complaint by an agency, the complainant shall be furnished with a copy of the decision. The complainant may file an appeal with the Assistant Secretary requesting assumption of jurisdiction under the provisions of § 50–250.29. The Assistant Secretary shall review the complaint and all relevant material related thereto, including the decision issued by the agency head. If he determines that assumption

of jurisdiction under § 50–250.29 is necessary or appropriate to achieve the purposes of the Act, he shall notify the complainant and agency, and take whatever action he deems appropriate in accordance with the provisions set forth therein.

(g) The Employment Standards Administration or the Agency shall notify the complainant if they find no violation, or if it does not intend to initiate administrative or legal proceedings against the contractor, or if it signs a memorandum of agreement, consent decree of other settlement with the contractor, and shall include therewith a copy of any such agreement. The complainant must be notified within 90 days after the complaint has been filed. Failure to take action and conditions of settlement directly affecting the complainant may be appealed to the Assistant Secretary.

§ 50–250.28 Processing of complaints by agencies.

(a) *Investigations.* The agency shall institute a prompt investigation of each complaint referred to it, and shall be responsible for developing a complete case record. A complete case record consists of the following:

(1) Name and address of each person interviewed,

(2) A summary of his statement,

(3) Copies or summaries of pertinent documents,

(4) A narrative summary of the evidence disclosed in the investigation as it related to each charge, and

(5) Recommended resolution and/or actions.

(b) *Resolution of matters.*

(1) If the investigation of a complaint by an agency pursuant to paragraph (a) of this section shows no violation of the affirmative action clause, the agency shall so inform the Assistant Secretary. The Assistant Secretary shall periodically review such findings of the agency, and he may request further investigation by the agency or may undertake such investigation as he may deem appropriate.

(2) If any complaint investigation indicates a violation of the affirmative action clause, the matter should be resolved by informal means whenever possible. Each contractor shall be advised that the resolution is subject to review by the Assistant Secretary and may be disapproved if he determines that such resolution is not sufficient to achieve compliance.

(3) Hearings shall be conducted in accordance with § 50–250.32. For reasonable cause shown, the Assistant Secretary or his designee or an agency head may reconsider or cause to be reconsidered any matter on his own motion or pursuant to a request from the complainant or contractor.

(c) *Reports to the Assistant Secretary.* Within 60 days from receipt of a complaint by the agency, or within such additional time as may be allowed by the Assistant Secretary for good cause shown, the agency shall process the complaint and submit to the Assistant Secretary the case record and a summary report containing the following information:

(1) Name and address of the complainant;

(2) brief summary of findings including a statement as to the agency's conclusions regarding the contractor's compliance or noncompliance with the requirements of the affirmative action clause;

(3) a statement of the disposition of the case, including any corrective action taken and relief provided or, whenever appropriate, the recommended corrective action and sanctions or penalties

§ 50–250.29 Assumption of jurisdiction by the Assistant Secretary.

(a) The Assistant Secretary may inquire into the status of any matter pending before an agency, including complaints and matters arising out of reports, reviews, and other investigations. Where he considers it necessary or appropriate in order to achieve the purposes of the Act, he shall assume jurisdiction over the matter and proceed as provided herein. Whenever the Assistant Secretary assumes jurisdiction over any matter, he may conduct, or have conducted, such investigation, hold such hearings, make such findings, issue such recommendations and directives, and order such sanctions and penalties, and take such other action as may be necessary or appropriate to achieve the purposes of the Act. The Assistant Secretary shall promptly notify the agency of any corrective action taken or any sanction to be imposed by the agency. The agency shall take such action and report the results thereof to the Assistant Secretary within the time specified.

(b) Hearings convened by the Assistant Secretary shall be conducted in accordance with § 50–250.32.

§ 50–250.30 Noncompliance with the affirmative action clause.

Noncompliance with the prime contractor's or subcontractor's obligations under the Affirmative Action Clause is a ground for taking appropriate action for nonperformance as set forth in § 50–250.31 by the agency or the Assistant Secretary. Any such noncompliance shall be reported in writing to the Assistant Secretary by the agency as soon as practicable after it occurs.

§ 50–250.31 Actions for nonperformance.

(a) *General.* In each case where any complaint investigation or compliance review indicates the existence of a violation of the affirmative action clause or these regulations, the matter should be resolved by informal means, including conciliation and persuasion whenever possible. This will also include, where appropriate, establishing a program for future compliance. Where the apparent violation is not resolved by informal means the agency shall proceed in accordance with the enforcement and sanction procedures contained in this part.

(b) *Specific performance and/or breach.* The Assistant Secretary may, as an alternative or supplement to the administrative remedies set forth herein, seek appropriate judicial relief for breach of contract or specific performance of the affirmative action clause of the contract or both.

(c) *Withholding progress payments.* With the prior approval of the Assistant Secretary, so much of the accrued payment due on the contract or any other contract between the government prime contractor and the Federal Government may be withheld to correct any violations of the provisions of the affirmative action clause.

(d) *Termination.* A contract or subcontract may be cancelled, or terminated, in whole or in part, for failure to comply with the provisions of the affirmative action clause.

(e) *Debarment.* A prime contractor or subcontractor or a prospective contractor or subcontractor may be debarred from receiving future contracts for failure to comply with the provisions of the affirmative action clause.

§ 50–250.32 Formal hearings.

(a) *Hearing opportunity.* Upon request a formal hearing shall be afforded to a prime contractor or a subcontractor or a prospective prime contractor or subcontractor by the agency or Assistant Secretary in any of the following circumstances:

(1) An apparent violation of the affirmative action clause by a contractor or subcontractor, as shown by any complaint investigation or compliance review is not resolved by informal means; or

(2) The Assistant Secretary or an agency, upon prior notification to the Assistant Secretary, proposes to request the Secretary or other agency head to cancel or terminate the contract or withhold progress payments, or cause the contract to be canceled or terminated or progress payments to be withheld, in whole or in part, on a contract or contracts, or to require cancellation or termination of a subcontract or subcontracts or withholding of progress payments; or

(3) The Assistant Secretary or an agency, upon prior notification to the Assistant Secretary, proposes to request the Secretary or other agency head to declare a prime contractor or subcontractor ineligible for further contracts or subcontracts under the Act.

(b) Notices of proposed action for nonperformance. Written notices of proposed action for nonperformance, signed by the Assistant Secretary or appropriate agency official, shall be sent to the last known address of the prime contractor or subcontractor by registered mail, deliver to addressee only, return receipt requested. If the contractor does not receive such notice, a copy of such notice shall be published in the FEDERAL REGISTER. The notice shall contain a precise jurisdictional statement, a short and plain statement of the matters furnishing a basis for action for nonperformance, an enumeration of the actions being requested, and a citation of the provi-

sions pursuant to which the requested action may be taken. The prime contractor or subcontractor shall be afforded at least 14 days from receipt of the notice of proposed action for nonperformance in which to file an answer to the notice and a request for a hearing with the Assistant Secretary or the agency and the contractor shall be so informed in the notice. The answer shall admit or deny specifically, and in detail, matters set forth in each allegation of the notice unless the prime contractor or subcontractor is without knowledge, in which case the answer shall so state, and the statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Matters alleged as affirmative defenses shall be separately stated and numbered. The hearing request shall be included as a separate paragraph of the answer.

(c) *Hearings.* Reasonable notice of the hearing shall be sent by registered mail, return receipt requested, to the last known address of the prime contractor or subcontractor complained against. Such notice shall contain the time, place, and nature of the hearing and a statement of the legal authority pursuant to which the hearing is to be held. Hearings shall be before a hearing officer designated by or under the direction of the Secretary or agency head. Each party shall have the right to counsel; a fair opportunity to present evidence and argument and to cross-examine. Whenever a formal hearing is based in whole or in part on matters subject to the collective bargaining agreement and compliance may necessitate a revision of such agreement, any labor organization which is a signatory to the agreement shall have the right to participate as a party. Whenever a hearing is held on a complaint under § 50–250.27 any person or organization shall be permitted to participate upon a showing that such person or organization has an interest in the proceedings and may contribute materially to the proper disposition thereof. The hearing officer shall make his proposed findings and conclusions upon the basis of the record before him.

(d) *Action for nonperformance without a hearing.* If at the end of the 14-day period referred to in this section no answer including a hearing request has been filed, or the answer does not raise issues of fact or law, the Assistant Secretary or agency head may cancel, terminate or cause to be canceled or terminated any one or more contracts or subcontracts, or parts thereof, held by the prime contractor or subcontractor complained against, or enter an order declaring such contractor or subcontractor ineligible for further contracts, subcontracts, or extensions or other modifications of existing contracts, until the contractor or subcontractor has satisfied the Assistant Secretary that it has established and will carry out personnel and employment policies and practices in compliance with the provisions of the Act, affirmative action clause, and the regulations.

(e) *Decision following hearing.* When the hearing is conducted by an agency, the hearing officer shall make recommendations to the head of the agency who shall make a decision whether sanctions will be invoked against the contractor or subcontractor. No decision by the head of the agency, or his representative, shall be final without the prior approval of the Assistant Secretary. When the hearing is conducted by a hearing officer appointed by or under the direction of the Assistant Secretary, the hearing officer shall make recommendations to the Assistant Secretary, who shall make the final decision whether actions for nonperformance will be taken against the contractor or subcontractor. Parties shall be furnished with copies of the hearing officer's recommendations, and shall be given an opportunity to submit their views.

§ 50–25.33 Notification of agencies.

The Assistant Secretary of Labor shall notify the heads of all agencies of any action for nonperformance taken against any contractor after such actions have been taken. No agency may issue a waiver under § 50–250.24(b) (1) to any contractor subject to such action without prior approval of the Assistant Secretary.

§ 50–250.34 Contractor ineligibility list.

The Assistant Secretary shall distribuate periodically a list to all executive departments and agencies giving the names of prime contractors and subcontractors who have been declared ineligible under the regulations in this part and the Act.

§ 50–250.35 Disputed matters related to the affirmative action program.

The procedures set forth in the regulations in this part govern all disputes relative to a contractor's compliance with the affirmative action clause and the requirements of this part. Any disputes relating to issues other than compliance, including contract costs arising out of the contractor's efforts to comply, shall be determined by the disputes clause of the contract.

§ 50–250.36 Responsibilities of State employment services.

(a) Any job openings listed pursuant to § 50–250.3 which requires contractors to list their job openings with State employment services offices, shall be utilized by State employment security agencies to refer qualified disabled veterans and veterans of the Vietnam era.

(b) The local offices of the Federal-State employment service shall give priority in referral to disabled veterans and veterans of the Vietnam era to such employment openings listed by contractors and subcontractors pursuant to this part.

(c) The local employment office staff will contact employers to solicit job orders. The State employment service will make available information pertinent to a determination of whether the contractor is in compliance with the mandatory listing and reporting requirements of the affirmative action clause.

Subpart C—Ancillary Matters

§ 50–250.50 Reinstatement of ineligible contractors and subcontractors.

Any prime contractor or subcontractor debarred from further contracts or subcontracts under the Act may request reinstatement in a letter directed to the Assistant Secretary. In connection with the reinstatement proceedings, the prime contractor or subcontractor shall be required to show that he has established and will carry out employment policies and practices in compliance with the affirmative action clause.

§ 50–250.51 Intimidation and interference.

The sanctions and penalties contained in this regulation may be exercised by the agency or the Assistant Secretary against any prime contractor or subcontractor, who fails to take all necessary steps to ensure that no person intimidates, threatens, coerces, or discriminates against any individual for the purpose of interfering with the filing of a complaint, furnishing information, or assisting or participating in any manner in an investigation, compliance review, hearing, or any other activity related to the administration of the Act.

§ 50–250.52 Recordkeeping.

(a) Each contractor and subcontractor shall maintain for a period not less than three years such employment or other records as required by the Assistant Secretary or agency or by this part and shall furnish such information in the form required by the Assistant Secretary or agency as the Assistant Secretary deems necessary for the administration of the Act and regulations issued under this part.

(b) Failure to maintain complete, accurate and annually updated records as required under this section constitutes noncompliance with the contractor's or subcontractor's obligations under the affirmative action clause and is a ground for the imposition of appropriate sanctions.

§ 50–250.53 Access to records of employment.

Each prime contractor and subcontractor shall permit access during normal business hours to his places of business, books, records and accounts pertinent to compliance with the Act, and all rules and regulations promulgated pursuant thereto for the purposes of complant investigations, compliance reviews and investigations of performance under the affirmative action clause of the contract or subcontract. Information obtained in this manner shall be used only in connection with the administration of the Act.

§ 50–250.54 Rulings and interpretations.

Rulings under or interpretations of the Act and the regulations contained in this Part 50–250 shall be made by the Secretary or his designee.

§ 50–250.55 Effective date.

Signed at Washington, D.C. this 16th day of October, 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-28342 Filed 10-22-75;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Chapter I]

COMMODITY OPTIONS

Temporary Regulations

The Commodity Futures Trading Commission is considering the adoption of rules to regulate—or perhaps forbid—transactions in commodity options, and has assigned to its Advisory Committee on Definition and Regulation of Market Instruments the responsibility of making an appropriate recommendations to the Commission on this matter. The Commission is soliciting the views of knowledgeable persons concerning whether one or another of several possible approaches presently being considered—or some other approach—should be adopted. The Commission is also considering what, if any, temporary rule might be promulgated pending the adoption of more definite rules after receipt by the Commission of the Advisory Committee recommendations.

Section 4c(a)(B) of the Commodity Exchange Act, as amended, 7 U.S.C. 6c (a)(B), expressly forbids option transactions[1] relating to those commodities which were regulated under that Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974.[2] The 1974 Act expanded the definition of commodity to include "all other goods and services, rights and interests in which contracts for future delivery are presently or in the future dealt in . . . ." With respect to commodities that are newly within this expanded definition, Section 4c(b) of the Commodity Exchange Act, as amended, 7 U.S.C. 6c(b), now provides:

No person shall offer to enter into, enter into, or confirm the execution of, any [commodity option] transaction . . . contrary to any rule, regulation, or order of the Commission prohibiting any such transaction or allowing any such transaction under such terms and conditions as the Commission shall proscribe . . .[3]

Consequently, state-law provisions regulating the offer and sale of commodity options—at least those that involve commodity futures—have been preempted by the federal statute. *See, e.g.*, Conference Committee Report, S. Rep. No. 93-1194, 93d Cong., 2d Sess. at 35–36 (Sept. 30, 1974):

"Under the exclusive grant of jurisdiction to the Commission, the authority of the Commodity Exchange Act (and the regulations issued by the Commission) would preempt the field insofar as futures regulation is concerned. Therefore, if any substantive State law regulating futures trading was contrary to or inconsistent with Federal law, the Federal law would govern. In view of the broad grant of authority to the Commission to regulate the futures trading industry, the Conferees do not contemplate that there will be a need for any supplementary regulation by the States."

Pursuant to this authority, the Commission has promulgated a rule broadly prohibiting deceptive acts or practices in connection with commodity option transactions.[4] Nevertheless, commodity-option offerings appear to have proliferated, and many of these offerings appear questionable since in most cases investors are not given adequate assurance that the issuers of the options will be able to perform their obligation under the option contracts when and if required to do so.

Thus, it is clear that the Commission must act further for the protection of investors. On the other hand, it would be inappropriate for the Commission to make any kind of definitive judgment concerning commodity options without thorough study. For this reason, the Commission's Advisory Committee on Definition and Regulation of Market Instruments has been assigned responsibility to carefully consider and report to the Commission its recommendations for appropriate regulation of commodity options.

Pending receipt of that Advisory Committee's recommendations, however, the Commission has been discussing the possibility of adopting some form of interim measure. Accordingly, the Commission is holding a hearing on written submissions pursuant to which all interested members of the public may express their views, in written form, concerning the relative merits of the following described alternatives or may suggest additional alternatives that the Advisory Committee and the Commission might wish to consider. It is important that all persons transmit their views to the Commission as promptly as possible, since the Commission may find that interim action is an urgent matter and that it is necessary to implement a temporary rule without further public notice.[5] If the Commission should adopt a temporary rule, all comments that the Commission receives after its adoption will be considered with a view to possible modification of the temporary rule. Of course, all comments will be made available to and utilized by the Advisory Committee on Definition and Regulation of Market Instruments in formulating its recommendations to the Commission, and will be considered by the Commission when it promulgates a definitive rule.

1. *Prohibition of all Commodity Options Transactions.* One alternative would be to prohibit all commodity options transactions. Of course, in considering whether to prohibit commodity-option transactions altogether, either as an interim or permanent measure, the Commission must weigh the fact that, while illegitimate operations would be outlawed, transactions that may be entirely legitimate and which some feel serve desirable economic functions may also be barred. A prohibition might be considered desirable if option transactions are shown to have little or no economic utility, especially if the Commission continues to find that a substantial number of those who offer commodity options to the public engage in fraudulent practices. The Commission would appreciate public comment on the effects of a temporary or permanent prohibition, particularly whether there are legitimate enterprises offering commodity options which would suffer substantial adverse effects from the ban or whether they could, without serious

[1] The statute refers to any "transaction [which] is of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guarantee', or 'decline guarantee'. . . ." Section 4(c)(a)(B), 7 U.S.C. 6c (a)(B). For convenience in this release, the Commission is utilizing the term "option" to include all transactions described by this provision.

[2] Prior to the effective date of the Commodity Futures Trading Commission Act of 1974, the Commodity Exchange Act provided for the regulation of

". . . wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain, sorghums, millfeeds, butter, eggs, onions, solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cornseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice."

[3] Section 2(a)(1), 7 U.S.C. 2, of the Commodity Exchange Act provides (emphasis added):

"That the Commission shall have *exclusive jurisdiction* with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an option . . .), and transactions involving contracts of sale of a commodity for future delivery . . . ."

[4] 17 C.F.R. 30.01, 40 Fed. Reg. 26504, 26505 (June 24, 1975), reads as follows:

"30.01 *Fraud in connection with commodity options.* It shall be unlawful for any person, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly,

"A. to cheat or defraud or attempt to cheat or defraud any other person;

"B. to make or cause to be made to any other person any false report or statement thereof or cause to be entered for any person any false record thereof;

"C. to deceive or attempt to deceive any other person by any means whatsoever;

"in or in connection with an offer to enter into, the entry into or the confirmation of the execution of, any transaction involving any commodity regulated under the Commodity Exchange Act, as amended, but not specifically set forth in Section 2(a) of the Commodity Exchange Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, which is or is held out to be of the character of, or is commonly known to the trade as, an 'option', 'privilege', 'indemnity', 'bid', 'offer', 'put', 'call', 'advance guaranty', or 'decline guaranty.'"

[5] If the Commission should decide to adopt a temporary rule, it will consider whether it should first hold a hearing at which oral presentations may be made if any commentator should request an opportunity for oral presentation. In any event, it is contemplated that hearings for the reception of oral testimony will be held by the Advisory Committee at which time further comments on the advisability of various proposals will be received.

detriment, easily divert resources presently devoted to option transactions to other profitable opportunities.

2. *Restricting Commodity Options Transactions to Contract Markets.* A second alternative would be to permit commodity options transactions only through the facilities of a board of trade that has been designated as a contract market pursuant to Section 5 of the Commodity Exchange Act, 7 U.S.C. 7. Since the Commission has broad regulatory authority over contract markets, it could assure adequate regulation of commodity options by use of the self-regulatory framework of the contract markets. Moreover, since options and futures trading have similarities, it would be consistent with the statutory scheme of the Act, which effectively limits commodity futures transactions to contract markets, to treat option transactions in the same way. If transactions in options were limited to contract markets, the Commission would be able to review and approve the forms of option contracts as it does with futures contracts, and the Commission could impose necessary or appropriate safeguards.[6] However, this form of regulation would have the effect of prohibiting persons who have established presumably legitimate option trading enterprises from continuing their activities unless, without serious detriment, their method of operation can be converted to effect transactions through the facilities of a contract market.

3. *Business Plans.* A third alternative would be the adoption of a rule that would forbid option transactions except in accordance with a business plan that has been approved by the Commission. Thus, persons offering or selling commodity options might be requested to file a business plan with the Commission setting forth the nature of the issuer's business and material information which would be disclosed to investors. Option transactions would not be permitted unless the Commission had approved the business plan of the person offering or selling the option. The Commission would retain authority under such a rule to permit or to require changes in any plan.[7]

The "business plans" approach would provide the Commission with the most direct and responsive regulatory measure; however, it would be the most costly for the Commission to implement because the Commission would have to commit substantial time, personnel and resources to the administration of these plans. In addition, any person submitting a business plan would incur great expense which, of course, would ultimately be borne by the customers.

4. *Prohibition against "Naked" Options.* In considering enactment of the Commodity Futures Trading Commission Act of 1974, one congressional committee stated that the Commission's authority to regulate or "ban" options on commodities futures should not be exercised to approve any commodity option transaction:

> . . . if the option or transaction . . . does not guarantee the purchase of the futures contract in fulfillment of the option, should the purchaser seek to exercise the option. The Committee intends the Commission to act as expeditiously as possible to prohibit such transactions.[8]

The unsecured transactions referred to by the committee are the so-called "naked" commodity options.[9]

The Commission might conclude that prohibition or restriction of "naked" options is appropriate regardless of its treatment of other option transactions. It appears clear that the offer of "naked" options has involved serious abuses. Further, concern has been expressed that trading in naked options serves "virtually no economically useful purpose." [10] If this approach should be taken, however, it would be necessary to define "naked options" and propose effective prohibitions or restrictions for such transactions.

Of course, this approach would not prevent all abuses related to option transactions, and some form of reporting or registration requirement as well as investigative activity might be necessary to assure compliance.

5. *Registration with the Commission.* Another alternative form of regulation of commodity options would be to forbid commodity option transactions by any person not registered as a futures commission merchant. This approach would prevent option trading by persons who fail to meet the basic fiduciary and other standards that the Commodity Exchange Act imposes, and would enable the Commission to determine the identity of persons who are offering options to the public. On the other hand, commodity option enterprises present somewhat different regulatory considerations than the normal business of futures commission merchants. Accordingly, somewhat different regulatory standards should presumably apply. Thus, even if registration as a futures commission merchant were adopted as an interim requirement, extensive study would be required to determine whether to adopt or amend Commission rules concerning segregation of customer funds, hedging of options and other customer protection standards.[11]

The Commission would appreciate comments concerning the issues raised in the foregoing discussion and, in addition, requests comments on the following specific matters.[12]

1. What useful economic functions are performed by commodity option trading? In what ways do existing offerings of commodity options perform these economic functions?

2. Could option trading have an adverse economic effect upon futures trading in terms of liquidity or otherwise? If so, do those economic effects differ with respect to agricultural as contrasted with non-agricultural commodities?

3. If option trading should be permitted, what form of regulation would be most appropriate and what specific rules should be adopted further to protect against fraudulent acts and practices and

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[6] If this alternative were selected, the Commission might, for example, adopt an interim regulatory rule patterned after Rule 17 C.F.R. 240.9b-1, adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, for securities options transactions effected through the facilities of a national securities exchange. That rule provides in part (emphasis supplied) that:

"It shall be unlawful for a national securities exchange, or for any member thereof, to effect any transaction in an option, or to permit any transaction in an option to be effected, by the use of the facilities of the exchange, *except in accordance with a plan regulating transactions in options on the exchange that is declared effective by the Commission pursuant to this rule.*"

[7] If adopted, this approach would be implemented through a rule similar to that proposed by the Commission for leverage contracts that are subject to Section 217 of the Commodity Futures Trading Commission Act. *See* 40 Fed. Reg. 36382 (August 20, 1975).

[8] H.R. Rep. No. 93-975, 93d Cong., 2d Sess. at 31 (1974).

[9] *See* Note, 73 Mich. L. Rev. 710, 720-721 (1975):

"Naked options are based on changes in futures prices but are not backed either by futures contracts or by actual ownership of the commodities involved. Limited capital requirements and lack of regulation make entering into naked options trading easy; the potential for abuse is correspondingly high. Moreover, naive investors are attracted to this area by its 'get-rich-quick' potential."

It was noted in the Senate hearings on the legislation that became the Commodity Futures Trading Commission Act of 1974 that ". . . naked options, as the name implies, are not covered by inventories of physical commodities or futures contracts for such commodities. Indeed, dealers admit that to cover their outstanding option contracts would tie up an enormous amount of their capital and make it unprofitable to operate. Rather, naked options 'represent nothing more than the seller's unsupported promise to perform.'"

Hearings Before the Senate Committee on Agriculture and Forestry on S. 2485, S. 2578, S. 2837 and H.R. 13113, 93d Cong., 2d Sess. pt. 3 at 828 (1974).

[10] *Hearings Before the Senate Committee on Agriculture & Forestry, supra* n. 9 at p. 828.

[11] Generally, persons who are offering commodity options to the public are required to register with the Commission as commodity trading advisors. Section 2(a)(1) provides that a commodity trading advisor is one who, for compensation or profit, advises others as to the value of commodities or the advisability of trading in any commodity for future delivery subject to the rules of any contract market. A person who offers and sells cash commodity options presumably gives some advice as to the "value of" the commodity underlying the option. One who purports to offer and sell options on commodity futures contracts will advise on the "advisability of trading" in futures contracts, whether his advice is to purchase a futures contract or instead to purchase an option.

However, because commodity trading advisors are not required to comply with any minimum financial requirements, the Commission would be unable to determine whether the trading advisor is solvent or is otherwise able and willing to perform under the terms of the option contracts.

[12] In giving comments it would be helpful if persons giving comments would also supply supporting factual data to the Commission.

to provide financial safeguards to the customers of persons who are offering and selling options?

4. Should option trading in commodity futures contracts as well as in cash commodities be permitted? If so, what differences in regulation, if any, would be appropriate?

5. Should trading in "naked options" be banned or, if permitted, what, if any, particularized regulation should be imposed? For this purpose, how should "naked options" be defined?

6. What considerations should be weighed in determining whether option trading should be restricted to contract markets? If it is believed that option trading should be permitted otherwise than through the facilities of contract markets, what form of regulation would be appropriate?

7. What additional considerations, if any, would be relevant to whether or in what manner trading should be permitted in foreign commodity options, including the so-called "London" option?

The foregoing questions are not intended in any way to restrict or limit comment on the issues presented and constitute only a preliminary and very general survey by the Commission. The Commission seeks comment in any area that interested persons believe would be appropriate in as much detail as the commentator is willing to provide.

The Commission's consideration of interim as well as more permanent regulatory measures does not relieve any person of any requirement or obligation imposed by any provision of the Act or the rules, regulations and orders thereunder. Particular attention is directed to the antifraud regulations applicable to commodity options transactions. (17 C.F.R. 30.01.)

As noted above, the Commission is holding a hearing through written submissions on what permanent or interim proposal should be adopted by the Commission for the regulation of commodity options and interested persons are invited to express their views and comments concerning these proposals and the questions raised herein. To be considered, written statements of views and comments should be submitted to Commodity Futures Trading Commission, 1120 Connecticut Avenue, N.W., Washington, D.C. 20036, Attention: CCU, on or before November 11, 1975. In addition, any person may request the opportunity to express their views at an oral hearing. If the Commission should conclude that an oral presentation will be of value, it will, by subsequent notice, set the time and place of that oral hearing. All comments received will be available for public inspection.

Issued in Washington, D.C. on this 16th day of October 1975.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc.75-28432 Filed 10-21-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 446-4]

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS; ARIZONA

Proposed Sulfur Oxide Control Strategy and Regulations for Existing Non-Ferrous Smelters

The purpose of this notice is to propose substitute regulations for control of sulfur oxide emissions at existing copper smelters in the Phoenix-Tucson Intrastate Region and the Arizona portion of the Arizona-New Mexico Southern Border Interstate Region. The preamble which follows contains the background for this action, a discussion of the air quality in the Regions, a description of the proposed regulations, announcement of public hearings and a request for written comments. The Administrator encourages public comment at the public hearings or in writing. The findings from all information available to the Administrator will form the basis of the final promulgation of Arizona sulfur oxide control strategy regulations for copper smelters.

BACKGROUND

On May 31, 1972 (37 FR 10849) pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator disapproved the State of Arizona implementation plan for attainment and maintenance of the National Ambient Air Quality Standards for sulfur oxides in the Phoenix-Tucson Intrastate Region and the Arizona portion of the Arizona-New Mexico Southern Border Region. The Administrator's disapproval was based on the fact that the plan did not contain a control strategy nor regulations for sulfur oxides in these Regions. One day before, on May 30, the Governor of Arizona submitted a revision to the state plan. This revision was too late to be considered in the May 31 decision. However, on July 27, 1972 (37 FR 15081) the Administrator published in the FEDERAL REGISTER his decision on the May 30 revision to the Arizona plan. Specifically with respect to sulfur oxide emissions in the Phoenix-Tucson and Arizona-New Mexico Southern Borders Regions, the Administrator disapproved Regulation 7-1-4.1 of the Arizona Rules and Regulations, and emission limitation for existing copper smelters.

The Administrator's decision to disapprove Regulation 7-1-4.1 was based on several factors. First, the regulation did not define specific emission limitations for copper smelters. Using the proportional model equation, a mathematical technique for determining the amount of emission reduction needed to meet air quality standards, the regulation defined the degree of control needed to meet the primary annual standard for sulfur oxides in the vicinity of each smelter. However, the regulation did not specify the air quality values to be used in the equation. In addition, the regulation provided for adjusting the degree of control indicated by the proportional model based on diffusion model results. The regulation also failed to specify the magnitude of this adjustment as it applied to each smelter. The fact that the regulation was not specific made it impossible to evaluate and judge whether or not it would have attained and maintained the national standards. Finally, this regulation did not require permanent control of emissions for copper smelters to achieve all national standards for sulfur oxides, including the 24-hour standard. Instead of permanent control of emissions, the Arizona regulations require the use of "intermittent production curtailment such as closed loop operational control" (defined in the Arizona regulations as "the rapid curtailment or cessation of smelter emissions in order to prevent the occurrence of ambient air concentrations in excess of the standards . . .") to achieve the difference between positive control to meet the annual primary standard and that necessary to meet all other sulfur oxide standards.

On July 27, 1972 (37 FR 15096) the Administrator proposed replacement regulations for control of sulfur oxides emitted by all existing smelters in Arizona. These regulations contained specific emission limits for each Arizona smelter. In these regulations, the amount of control required for attainment and maintenance of all national standards was based on available air quality data and diffusion model estimates where air quality data was not available. The air quality data was in the form of summarized data submitted to EPA by the then Arizona Division of Air Pollution Control. Public hearings on the proposed replacement regulations were held in Phoenix and Tucson on September 6 and 8, 1972 respectively. In these hearings, the air quality data was severely critized by the smelting industry as being inaccurate. EPA subsequently obtained and examined the raw data and compared it to the summarized data originally submitted by the Division. This analysis revealed in many specific instances that the data was inaccurate due to equipment malfunction and, in general, equipment maintenance and data reduction by the Division were sufficiently questionable so as to make the validity of all data doubtful. Therefore, because of questionable data and the lack of any new data, the emission limits proposed on July 27, 1972 were not finalized. Instead EPA established a monitoring network and collected air quality data at 23 sites in the vicinity of the seven copper smelters located in Arizona. Data was collected from these sites during the period between June 1973 and October 1974.

The operator of each of the Arizona Copper smelters and the location of each smelter is as follows: in the Phoenix-Tucson Intrastate Region—American

Smelting and Refining Company, Hayden, Gila County; Inspiration Consolidated Copper Company, Gila County; Kennecott Copper Corporation, Ray Mines Division, Hayden, Gila County; Magma Copper Company, San Manuel Division, Pinal County; and Phelps Dodge Corporation, New Cornelia Branch, Ajo, Pima County, and in the Arizona-New Mexico Southern Borders Region, Phelps Dodge Corporation, Douglas Reduction Works, Cochise County and Phelps Dodge Corporation, Morenci Branch, Greenlee County.

The regulations proposed herein will require the control of emissions from each smelter such that both the primary and secondary standards will be met. Paragraph 52.125(d) of the proposed regulation pertains to control of fugitive emissions. Paragraph 52.125(e) establishes an emission limitation for each smelter as a whole that is sufficient to attain and maintain the national standards. Paragraph 52.125(f) provides an alternative for certain smelters to the emission limit established in (e), if it is determined by the smelter and approved by EPA, that it is economically unreasonable to meet such an emission limit. Specific provisions for an application to use supplementary control systems, or other measures such as a tall stack, are included in this paragraph. If the smelter elects to abide by the provisions of paragraph (f), the emission limitation specified in (e) should be considered a goal to be achieved through research into new constant emission control techniques. Paragraph 52.125(g) sets forth reporting requirements when any of the applicable emission limitations in paragraph (e) and (f) are not met.

In proposing these regulations, the Administrator has determined that the selective use of Supplementary Control Systems (SCS) to attain and maintain the ambient standards is consistent with the Clean Air Act when the only alternatives are permanent production curtailment, shutdown, or delays in the attainment of the national standards. However, constant emission limitation is the preferred strategy for attaining and maintaining the standards. SCS is acceptable only as a temporary measure where the use is necessary to augment constant emission limitation techniques as determined on a case-by-case basis, and only in circumstances wherein the SCS can be expected to exhibit a high degree of reliability and can be made legally enforceable. This philosophy has been expressed in the FEDERAL REGISTER on September 14, 1973 (38 FR 25697).

In proposing to allow the use of SCS it is the Administrator's judgment that its use it consistent with the purposes and provisions of the Clean Air Act and is in the best interest of the public. The position is supported by a decision by the U.S. Court of Appeals, Fifth Circuit, in *Natural Resources Defense Council, Inc. v. EPA*, 489 F2 390. After considering the provisions of the Clean Air Act, reviewing its legislative history, and considering the holding on the "nondegradation" issue, on February 6, 1974, the Court held that, under the Clean Air Act, dispersion techniques may be allowed if emission limitations sufficient to meet standards are unachievable or infeasible, and if regulations are adopted which will attain the maximum degree of emission limitations achievable. The position of the Fifth Circuit was recently adopted by the Sixth Circuit in *Big Rivers Electrical Corp v. EPA, No. 74-2015 (September 4, 1975)*. Three additional points support the Administrator's decision to only allow SCS on a temporary basis. First, in passage of the Energy Supply and Environmental Coordination Act (Pub. L. 93-319, June 22, 1974), which amended the Clean Air Act, Congress specifically rejected the use of SCS other than on a temporary basis for power plants. Secondly, continued loading of the atmosphere with sulfur oxides raises a potential threat to human health and welfare since recent studies have shown that, even at levels below ambient standards, sulfur oxide emissions form the basis for a derivative threat to health because they are converted, through chemical reactions occurring in the atmosphere, into other hazardous pollutants—namely, sulfates and sulfuric acid. Use of SCS technology does not significantly reduce total emissions of sulfur oxides, therefore, there would be an insignificant decrease in ambient sulfate concentrations. Lastly, *Air Quality and Stationary Source Emission Control—March 1975*, a report prepared by the National Academy of Sciences for the Senate Public Works Committee, independently reached the same conclusion as the Administrator on the role that SCS technology would play in the overall scheme of air pollution control. That is, "(t)he technology should be rejected as a permanent control technique, on the basis of the probability of substantial potential risks associated with increased atmospheric loadings of sulfur dioxide." The NAS further stated that, ". . . the technology could be accepted for carefully defined situations as an interim control technique. . . ."

POLLUTION FROM EXISTING NON-FERROUS SMELTERS IN ARIZONA

EPA established monitoring stations in the vicinity of each of the copper smelters in Arizona in the late summer or fall of 1973. The purpose of these stations was to collect short term ambient air quality data to be used in the determination of required emission limitations. Both continuous monitoring systems and 24-hour bubbler sampling systems were installed. The location of the stations was selected to either approximate the location of potentially high concentration areas or to supplement the existing smelter and/or State networks. In many instances the availability of power or property access precluded locating in the desired area.

Several of the smelters also operate monitoring networks. Some of the networks have been in operation for several years (Phelps Dodge/Douglas) while others are more recent (Kennecott and ASARCO/Hayden). All of the smelter companies have provided past data from their monitoring sites to EPA and several continue to submit data on a routine basis.

The State of Arizona also operates at least one monitoring site near each smelter.

Several of the highest 3-hour and 24-hour averages obtained from the monitoring networks are shown in Table 1. The percentage emission reduction requirements, based on proportional rollback, needed to meet the primary and secondary air quality standards are also given in Table 1.

TABLE 1.

Date	Concentration (parts per million 3-h average) (micrometers per cubic meter 24-h average)	Averaging time (hours)	Reduction required to meet standards [1] (percent)
Phelps Dodge/Ajo:			
Nov. 11, 1973	1.85	3	60.7
Nov. 2, 1973	1.35	3	63.0
Nov. 1, 1973	784	24	59.4
Jan. 8, 1974	602	24	44.9
Phelps Dodge/Douglas:			
Jan. 17, 1974	3.81	3	80.9
Dec. 8, 1973	3.37	3	85.2
May 20, 1974	1,305	24	73.8
Dec. 8, 1973	1,031	24	61.6
Phelps Dodge/Morenci:			
Nov. 10, 1973	4.10	3	87.8
Feb. 11, 1974	3.51	3	85.8
Dec. 21, 1973	2,335	24	84.4
Jan. 14, 1974	1,502	24	75.7
Kennecott and ASARCO/Hayden:			
Oct. 20, 1973	3.17	3	84.0
Oct. 13, 1973	2.67	3	82.0
June 4, 1974	2.33	3	79.0
Nov. 8, 1973	2,319	24	84.0
Magma/San Manuel:			
Oct. 12, 1973	2.32	3	78.4
Oct. 20, 1974	1.98	3	74.9
Nov. 14, 1974	.39	24	64.1
Oct. 12, 1973	.36	24	61.1
Inspiration:			
Sept. 10, 1974	4.43	3	88.7
Mar. 12, 1974	3.67	3	86.4
Nov. 5, 1974	2,193	24	83.4
Nov. 2, 1974	1,617	24	77.4

[1] Calculated from proportional rollback.

PROPOSED REGULATIONS

The proposed regulations are composed of four paragraphs and two appendices. The first paragraph (§ 52.125(d)) requires the control of low-level fugitive emissions, identifies specific points of control, and sets a compliance schedule for achieving control of fugitive emissions. The second paragraph (§ 52.125 (e)) sets an emission limit to be achieved by constant emission control sufficient to meet all national standards by July 31, 1977 or in the case of three smelters: The Inspiration Consolidated Copper smelter; the Phelps Dodge New Cornelia Branch smelter; and the Kennecott-Copper Corporation Ray Mines Division smelter by September 1, 1976. The third paragraph (§ 52.125(f)) is offered as an alternative to § 52.125(e) for certain smelters and sets emission limits based on reasonably available constant emission control technology, outlines the conditions to be satisfied to allow use of SCS, and establishes a compliance schedule for implementing the constant control and SCS. The fourth paragraph (§ 52.125(g)) sets forth reporting requirements to be met when any of the applicable emission limitations in §§ 52.125(e) and 52.125(f) are not met. Continuous monitoring of the emission limits set in either §§ 52.125(e) and 52.125(f) is required. Appendix D specifies procedures for determination of the SO_2 concentration while Appendix E contains procedures for determination of volumetric rates. These appendices were promulgated in the February 6, 1975 FEDERAL REGISTER (40 FR 5517).

Implementation procedures for these regulations will require ASARCO/Hayden, Magma/San Manuel, Phelps Dodge/Douglas and Phelps Dodge/Morenci to comply either with the emission limits set to meet all standards (§ 52.125(e)) or with the temporary alternative to comply with the emission limit requirements based on reasonably available constant control and additional approved controls (§ 52.125(a)). This alternative is proposed because it is the Administrator's judgment that the reasonably available constant control technology for these smelters is insufficient to achieve all national standards at this time. Therefore the aforementioned smelters may apply for permission to comply with the temporary alternative to achieve all standards with supplementary control. It is the Administrator's judgment that the Inspiration, Kennecott, and Phelps Dodge/Ajo smelters can achieve all national standards with constant controls currently installed.

The temporary alternative available to the four smelters requires compliance with the emission limit specific to each smelter based on reasonably available constant control and requires employment of such additional control measures as may be necessary to assure the attainment and maintenance of national standards. These additional controls include process changes, SCS, tall stacks, production reduction or any other technique approved by the Administrator. By allowing the use of SCS, the Administrator is acknowledging that SCS can incorporate design and enforcement features that will provide a reliable means to attain and maintain national SO_2 standards. The administrator has stipulated these specific requirements that will ensure reliability. These requirements include the assumption of liability for violation of air quality standards within a designated area, and the operation of the SCS in accordance with an approved manual based on demonstration studies. Certain recordkeeping procedures are also specified.

In paragraph 52.125(f) of the regulations, two emission limits are established as achievable with reasonably available constant control. These emission limits are an SO_2 concentration limit on acid plant emissions and a mass emission limit for the entire smelter. The emission limit for the acid plant (2600 ppm for a single contact and 650 ppm for a double contact acid plant) and the requirement that all converter gas must be processed by the acid plant are specified to assure full application of reasonably available constant control technology and to minimize emissions from the converters. A total plant emission limitation is specified based on the existing smelter configuration.

Paragraph 52.125(g) requires the source to notify the Director, Enforcement Division, Region IX whenever emissions are in excess of the limits specified in §§ 52.125(e) and 52.125(f). A reporting procedure is specified. Such reports include the reasons for and the extent of the emissions and the action taken by the smelter to limit such emissions. This information will be considered in determining both the need for and the nature of any required enforcement action.

Calculations of the emission limits are detailed in "Technical Data Support of Regulations for Control of Sulfur Dioxide Emissions at Arizona Copper Smelters." Information on available and potentially available constant controls for the ASARCO/Hayden, Magma/San Manuel, Phelps Dodge/Douglas and Phelps Dodge/Morenci smelters is contained in "The Evaluation of the Controllability of SO_2 Emissions from Copper Smelters in the State of Arizona." These documents are available at:

U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, CA 94111.

EPA Freedom of Information Center, 401 "M" Street SW, Washington, DC 20460.

Arizona Bureau of Air Quality Control, 1740 West Adams Street, Phoenix, AZ 85007.

Pima County Bureau of Air Pollution Control, 151 West Congress, Tucson, AZ 85710.

PUBLIC HEARINGS

Public hearings on this proposal will be held in the affected areas in the near future at times and places to be announced in local newspapers. These hearings will be held to receive comment on the proposed regulations. Persons wishing to participate in a hearing are requested (but not required) to submit three copies of their statements at least five days prior to the date of the hearing to: Regional Administrator, Attn: HE123, U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Regional Administrator, Attn: HE123, U.S. Environmental Protection Agency, 100 California Street, San Francisco, California 94111. All relevant comments received on or before December 22, 1975, will be considered. All comments received will be available for public inspection at the Regional Office. Copies of the proposal will also be available for inspection at the following locations: Arizona Bureau of Air Quality Control, 1740 West Adams Street, Phoenix, Arizona 85007 and Pima County Bureau of Air Pollution Control, 151 West Congress, Tucson, Arizona 85710. This notice of proposed rulemaking is issued under the authority of section 110(c) and 301(a) of the Clean Air Act (42 U.S.C. 1875c-5(c), 1875g).

Dated: October 10, 1975.

RUSSELL E. TRAIN,
Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart D—Arizona

1. In § 52.125, paragraphs (d), (e), (f), and (g) are added to read as follows:

§ 52.125 Control strategy and regulations: sulfur oxides.

* * * * *

(d) *Regulation for control of fugitive sulfur oxides emissions (Phoenix-Tucson Intrastate and Arizona-New Mexico Southern Border Interstate Regions).* (1) The owner or operator of the smelters located in the Phoenix-Tucson Intrastate and Arizona-New Mexico Southern Borders Regions shall utilize best engineering techniques for reducing of pollutants to the atmosphere and to capture sulfur oxides emissions and vent them through a stack or stacks. Such techniques shall include, but not be limited to:

(i) Installing and operating hoods on all hot calcine transfer points on each roaster;

(ii) Installing and operating hoods on all active matte tapholes, matte launders, slag skim bays, slag handling operations, and holding ladles on each reverberatory furnace;

(iii) Installing tight fitting hoods on each active converter and operating such hoods except during pouring and charging operations;

(iv) Maintaining all ducts, flues, and stacks in a leak-free condition;

(v) Maintaining all roasters, reverberatory furnaces, and converters under normal operating conditions in such a fashion that out-leakage of gases will be prevented to the maximum extent possible;

(vi) Wherever feasible, ducting emissions through the tallest stack or stacks serving the facility; and

(vii) Wherever feasible, passing the effluents from all hooding through the tallest stack or stacks serving the facility.

(2) (i) If the owner or operator of the smelter subject to this paragraph is not in compliance with the provisions of paragraph (d) (1) of this section the following compliance schedule shall apply:

(*a*) Thirty days after the effective date of this regulation—Let contracts or issue purchase orders for hoods and flues for control of fugitive sulfur oxides emissions or provide evidence that such contracts have been let.

(*b*) May 1, 1976—submit a report or progress in meeting the requirements of paragraph (d) (1) of this section.

(*c*) September 1, 1976—Achieve final compliance with requirements of paragraph (d) (1) of this section.

(ii) The owner or operator of the smelter subject to the requirements of subparagraph shall certify to the Administrator within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(iii) If the source subject to this paragraph is presently in compliance with the requirements of paragraph (d) (1) of this section, the owner or operator of such source may certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. If such certification is acceptable to the Administrator, the applicable requirements of this subparagraph shall not apply to the certifying source. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(3) The owner or operator of the smelter subject to this paragraph may submit to the Administrator, no later than thirty (30) days after the effective date of this paragraph, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after September 1, 1976. If approved by the Administrator, such schedule shall satisfy the compliance schedule requirements of this subparagraph for the affected source.

(e) *Regulation for control of sulfur dioxide emissions (Phoenix-Tucson Intrastate and Arizona-New Mexico Southern Border Interstate Regions).* (1) (i) The owner or operator of the copper smelters located in the Phoenix-Tucson Intrastate Region and identified in this subparagraph shall comply with all the requirements of this paragraph, except as provided in paragraph (f) of this section.

(ii) After July 31, 1977, the owner or operator of the smelters subject to this subparagraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of the following:

(*a*) In Pinal County: Magma Copper Company, San Manuel Division—12,880 pounds per hour (5,842 kg/hr.) maximum 6-hour average.

(*b*) In Gila County: American Smelting and Refining Company, Hayden—4,840 pounds per hour (2,196 kg/hr.) maximum 6-hour average.

(2) (i) The owner or operator of the copper smelters located in the Arizona-New Mexico Southern Borders Region and identified in this subparagraph shall comply with all the requirements of this paragraph, except as provided in paragraph (f) of this section.

(ii) After July 31, 1977, the owner or operator of the smelters subject to this subparagraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of the following:

(*a*) In Cochise County: Phelps Dodge Corporation, Douglas Reduction Works—13,040 pounds per hour (5,904 kg/hr.) maximum 6-hour average.

(*b*) In—Greenlee County: Phelps Dodge Corporation, Morenci Branch—14,740 pounds per hour (6,686 kg/hr.) Maximum 6-hour average.

(3) (i) The owner or operator of the Inspiration Consolidated Copper smelter located in Gila County, Arizona in the Phoenix-Tucson Intrastate Region shall comply with all the requirements of this paragraph.

(ii) After January 1, 1976, the owner or operator of the smelter subject to this subparagraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of 1,190 pounds per hour (540 kg/hr.) maximum 6-hour average.

(4) (i) The owner or operator of the Phelps Dodge New Cornelia Branch smelter in Pima County, Arizona in the Phoenix-Tucson Intrastate Region shall comply with all the requirements of this paragraph.

(ii) After January 1, 1976, the owner or operator of the smelter subject to this subparagraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of 5,120 pounds per hour (2,322 kg/hr.) maximum 6-hour average.

(5) (i) The owner or operator of the Kennecott Copper Corporation Ray Mines Division smelter in Gila County, Arizona in the Phoenix-Tucson Intrastate Region shall comply with all the requirements of this paragraph.

(ii) After January 1, 1976, the owner or operator of the smelter subject to this subparagraph shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of 3,660 pounds per hour (1,660 kg/hr.) maximum 6-hour average.

(6) The limitations specified in paragraphs (e) (1) (ii), (e) (2) (ii), (e) (3) (ii), (e) (4) (ii) and (e) (5) (ii) of this section shall be determined by the method specified in paragraph (e) (8) of this section. The specified limitations shall apply to the sum total of sulfur dioxide emissions from the smelter processing units and sulfur oxides control and removal equipment, but not including uncaptured fugitive emissions and those emissions due solely to the use of fuel for space heating or steam generation.

(7) (i) The owner or operator of the smelters to which this paragraph is applicable shall, no later than 30 days following the effective date of this paragraph, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with paragraph (e) (2) of this section as expeditiously as practicable but not later than the date specified in (e) (1) (ii), (e) (2) (ii), (e) (3) (ii), (e) (4) (ii) and 5(ii) of this section.

(ii) The compliance schedule submitted to the Administrator pursuant to paragraph (e) (3) (i) of this section shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to, the following:

(*a*) Submittal of final control plan to the Administrator for meeting the requirements of paragraph (e) (2) of this section;

(*b*) Letting of necessary contracts or process changes, or issuance of orders for the purchase of component parts, to accomplish emission control or process modification;

(*c*) Initiation of on-site construction or installation of emission control equipment or process modification;

(*d*) Completion of on-site construction or installation of emission control equipment or process modification;

(*e*) Full compliance with the requirements of paragraph (e) (2) of this section.

(iii) The owner or operator of the smelters subject to the requirements of this subparagraph shall certify to the Administrator within five days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(iv) Notice must be given to the Administrator at least 10 days prior to conducting a performance test to afford him the opportunity to have an observer present.

(v) If any source subject to this paragraph is currently in compliance with the requirement of paragraph (e) (2) of this section, the owner or operator of such source may certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. If such certification is acceptable to the Administrator, the applicable requirements of this paragraph (e) (3) of this section shall not apply to the certifying source. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(8) (i) The owner or operator of the smelters to which this paragraph is applicable shall install, calibrate, maintain, and operate a measurement system(s) for continuously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in each stack which emits 5 percent or more of the total potential (without emission controls) hourly sulfur oxides emissions from the source. For the purpose of this paragraph, "continuous monitoring" means

the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack in each 15-minute period.

(ii) Within nine months after the effective date of this paragraph, and at other such times in the future as the Administrator may specify, the sulfur dioxide concentration measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix D to this Part.

(iii) Within nine months after the effective date of this paragraph, and at other such times in the future as the Administrator may specify, the stack gas volumetric flow rate measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix E to this Part.

(iv) The Administrator shall be notified at least ten (10) days in advance of the start of the field test period required in Appendices D and E to this Part to afford the Administrator the opportunity to have an observer present.

(v) (a) The sampling point shall be at least eight stack diameters (diameter measured at sampling point) downstream and two diameters upstream from any flow disturbance such as a bend, expansion, construction or visible flame.

(b) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.647 m^2 (50 ft^2) or at a point no closer to the wall than 0.914 m (3 ft) if the cross sectional area is 4.647 m^2 (50 ft^2) or more. The monitor sample point shall be in an area of small spatial concentration gradient and shall be representative of the concentration in the duct.

(vi) The measurement system(s) installed and used pursuant to this section shall be subjected to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(vii) Six-hour average sulfur dioxide emission rates shall be calculated in accordance with paragraph (e)(5) of this section, and recorded daily.

(viii) The owner or operator of the smelters subject to this paragraph shall maintain a record of all measurements required by this paragraph. Measurement results shall be expressed as pounds of sulfur dioxide emitted per six hour period. A 6-hour average value calculated pursuant to paragraph (e)(9)(i) of this section shall be reported as of each hour for the preceding 6-hour period. Results shall be summarized monthly and shall be submitted to the Administrator within fifteen (15) days after the end of each month. A record of such measurements shall be retained for at least two years following the date of such measurements.

(ix) The continuous monitoring and recordkeeping requirements of this subparagraph shall become applicable nine months after the effective date of this regulation.

(9)(i) Compliance with the requirements of paragraphs (e) (2), (3), (4) and (5) of this section shall be determined using the continuous measurement system(s) installed, calibrated, maintained and operated in accordance with the requirements of paragraph (e)(8) of this section. For all stacks equipped with the measurement system(s) required by paragraph (e)(8) of this section, a 6-hour average sulfur dioxide emission rate shall be calculated as of the end of each clock hour, for the preceding six hours, in the following manner:

(a) Divide each 6-hour period into 24 15-minute segments.

(b) Determine on a compatible basis a sulfur dioxide concentration and stack gas flow rate measurement for each 15-minute period for each affected stack. These measurements may be obtained either by continuous integration of sulfur dioxide concentration and stack gas flow rate measurements (from the respective affected facilities) recorded during the 15-minute period or from the arithmetic average of any number of sulfur dioxide concentration and stack gas flow readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings shall be taken in each 15-minute period and the readings shall be similarly spaced within each 15-minute period.

(c) Calculate the arithmetic average from all 24 emission rate measurements in each 6-hour period for each stack. Measurements will be reported in lbs SO_2/hr.

(d) Total the average sulfur dioxide emission rates for all affected stacks.

(ii) Notwithstanding the requirements of paragraph (e)(9)(i) of this section, compliance with the requirements of paragraphs (e) (2), (3), (4) and (5) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For all stacks equipped with the measurement system(s) required by paragraph (e)(8) of this section, a 6-hour average sulfur dioxide emission rate (lbs SO_2/hr) shall be determined as follows:

(a) The test of each stack emission rate shall be conducted while the processing units vented through such stack are operating at or above the maximum rate at which they will be operated and under such other conditions as the Administrator may specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the over-all test procedure.

(c) Three independent sets of measurements of sulfur dioxide concentrations and stack gas volumetric flow rates shall be conducted during three 6-hour periods for each stack. Each 6-hour period will consist of three consecutive 2-hour periods. Measurements of emissions from all stacks on the smelter premises need not be conducted simultaneously. All tests must be completed within a 72-hour period.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each two hour test shall be 40 ft^3 corrected to standard conditions, dry basis.

(e) The volumetric flow rate of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and by traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content shall be determined by use of Method 4 as described in Part 60 of this chapter except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content.

(f) The gas sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(g) For each two hour test period, the sulfur dioxide emission rate for each stack shall be determined by multiplying the stack gas volumetric flow rate (ft^3/hr at standard conditions, dry basis) by the sulfur dioxide concentration (lb/ft^3 at standard conditions, dry basis). The emission rate in lbs/hr-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three 2-hour tests conducted within a six-hour period.

(h) The average emission rate from the three independent sets of measurements in lbs/hr-maximum six hour average for each stack is determined by calculating the arithmetic average of the six-hour values calculated pursuant to subparagraph (9)(ii)(g) of this paragraph.

(i) The sum total of sulfur dioxide emissions from the smelter premises in lbs/hr is determined by adding together the emission rates (lbs/hr) from all stacks equipped with the measurement system(s) required by paragraph (e)(8) of this section.

(f) *Alternate regulation for control of sulfur dioxide emissions (Phoenix-Tucson Interstate and Arizona-New Mexico Southern Borders Regions).* (1) (i) The owner or operator of the smelters identified in paragraph (f) 1(ii) and 1(iii) of this section may apply to the Administrator for approval to meet the requirements of this paragraph. Upon such approval, granted pursuant to paragraph

(f)(3) of this section, the requirements of paragraph (e) of this section shall not be applicable during the period of such approval, and all requirements of this paragraph shall apply.

(ii) The smelters located in the Phoenix-Tucson Intrastate Region for which this paragraph may apply are as follows:

(a) In Pinal County: Magma Copper Company, San Manuel Division.

(b) In Gila County: American Smelting and Refining Company, Hayden Smelter.

(iii) The smelters located in the Arizona-New Mexico Southern Borders Interstate Region for which this paragraph may apply are as follows:

(a) In Cochise County: Phelps Dodge Corporation, Douglas Reduction Works.

(b) In Greenlee County: Phelps Dodge Corporation, Morenci Branch.

(2) All terms used in this paragraph but not specifically defined below shall have the meaning given them in the Act, Part 51 or § 52.01 of this chapter.

(i) The term "supplementary control system" means any system which limits the amount of pollutant emissions during periods when meteorological conditions conducive to ground-level concentrations in excess of national standards exist or are anticipated.

(ii) The term "ambient air quality violation" means any single ambient concentration of sulfur dioxide that exceeds any National Ambient Air Quality Standard for sulfur dioxide at any point in a designated liability area, as specified in paragraph (f)(8) of this section.

(iii) The term "isolated source" means a source that will assume legal responsibility for all violations of the applicable national standards in its designated liability area, as specified in paragraph (f)(8) of this section.

(iv) The term "designated liability area" means the geographic area within which emissions from a source may significantly affect the ambient air quality. For the smelters subject to this paragraph, the designated liability area is specified under subparagraph (f)(8)(i) of this section.

(3)(i) The application for permission to comply with this paragraph shall be submitted to the Administrator no later than sixty (60) days following the effective date of this paragraph and shall include the following:

(a) A short description of the type and location of the smelter; the process, equipment, raw materials and fuels used; the stacks employed; and emissions to the atmosphere from various points on the smelter premises.

(b) A general description and the location of other sources of air pollution and of the uses of land, and the topography in the vicinity of the smelter.

(c) A summary of all ambient air quality data in the vicinity of the smelter collected by or under contract to the smelter.

(d) A description of the methods of constant emission reduction that is or will be applied and the degree of emission reduction achieved or expected due to their application.

(e) A description of the investigations that the owner or operator has made, and the results thereof, as to the availability of constant emission reduction methods that would meet the requirements of paragraphs (e)(2), (e)(3), (e)(4) and (e)(5) of this section and a discussion of the reasons why any potentionally available methods cannot reasonably be used.

(f) A specific description of the research, investigations, or demonstrations that the owner or operator will conduct or support for the purpose of developing constant emission reduction technology applicable to the smelter. Such description shall include the resources to be committed, qualifications of the participants, a description of the facilities to be utilized and milestone dates.

(g)(1) A detailed description of all other measures the owner or operator will apply, in addition to those described in paragraph (f)(3)(i)(d) of this section to provide for attainment and maintenance of the air quality standards. These measures include but need not be limited to supplementary control systems, tall stacks and other dispersion techniques. The owner or operator of the source subject to this paragraph shall demonstrate to the Administrator that control measures in addition to the selected constant emission controls are required and that the specific measures submitted pursuant to this subparagraph will provide for the attainment and maintenance of the National Ambient Air Quality Standards.

(2) Each measure to be applied shall be described in sufficient detail to allow the Administrator to determine its effectiveness in reducing ambient concentrations.

(3) If application is made for the use of supplementary control systems, the application will include all items specified in paragraphs (f)(9), (f)(10) and (f)(11).

(h) A written commitment by the owner or operator of the source subject to this paragraph agreeing to assume liability for all violations of National Ambient Air Quality Standards within the designated liability area.

(i) Such other pertinent information as the Administrator may require.

(ii) Upon receipt of the information specified in paragraph (f)(3)(i) of this section, and after making a determination of its adequacy, the Administrator promptly shall, after thirty (30) days notice, conduct a public hearing on the application submitted by the owner or operator. The Administrator shall make available to the public the information contained in the application. Within thirty (30) days after the hearing, the Administrator shall notify the owner or operator of the smelter and other interested parties of his decision as to whether to grant or deny the application. If he denies the application, he will set forth his reasons. If he approves the application the owner or operator shall comply with all provisions of paragraph (f) of this section and need not comply with provisions of paragraph (e) of this section except as provided in paragraph (f)(16) of this section.

(4)(i) The owner or operator of the Magma Copper Company San Manuel smelter shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of:

(a) 2,600 parts per million-maximum 6-hour average, from any single absorption sulfuric acid producing facility designed for the removal of sulfur dioxide, as determined by the method specified in paragraph (f)(6)(i) or (iii) of this section and

(b) 61,670 pounds per hour (28,032 kg/hr) maximum 6-hour average, as determined by the method specified in paragraph (f)(6)(ii) or (iv) of this section. Such limitation shall apply to the sum total of sulfur dioxide emissions from the smelter processing units and sulfur oxides control and removal equipment but not including uncaptured fugitive emissions and those emissions due solely to use of fuel for space heating or steam generation.

(ii) The owner or operator of the American Smelting and Refining Company Hayden smelter shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of:

(a) 2,600 parts per million-maximum 6-hour average, from any single absorption sulfuric acid producing facility designed for the removal of sulfur dioxide, as determined by the method specified in paragraph (f)(6)(i) or (iii) of this section and

(b) 45,500 pounds per hour (20,684 kg/hr) maximum 6-hour average, as determined by the method specified in paragraph (f)(6)(ii) or (iv) of this section. Such limitation shall apply to the sum total of sulfur dioxide emissions from the smelter processing units and sulfur oxides control and removal equipment but not including uncaptured fugitive emissions and those emissions due solely to use of fuel for space heating or steam generation.

(iii) The owner or operator of the Phelps Dodge Corporation Douglas Reduction Works smelter shall not discharge or cause the discharge of sulfur dioxide into the atmosphere in excess of:

(a) 650 parts per million-maximum 6-hour average from any facility designed for the removal of sulfur dioxide, as determined by the method specified in paragraph (f)(6)(i) or (iii) of this section and

(b) 88,220 pounds per hour (40,098 kg/hr) maximum 6-hour average, as determined by the method specified in paragraph (f)(6)(ii) or (iv) of this section. Such limitation shall apply to the sum total of sulfur dioxide emissions from the smelter processing units and sulfur oxides control and removal equipment but not including uncaptured fugitive emissions and those emissions due solely to use of fuel for space heating or steam generation.

(iv) The owner or operator of the Phelps Dodge Corporation Morenci Branch smelter shall not discharge or

cause the discharge of sulfur dioxide into the atmosphere in excess of:

(a) 2,600 parts per million-maximum 6-hour average, from any single absorption sulfuric acid producing facility designed for the removal of sulfur dioxide, as determined by the method specified in paragraph (f)(6)(i) or (iii) of this section and

(b) 63,270 pounds per hour (28,758 kg/hr) maximum 6-hour average, as determined by the method specified in paragraph (f)(6)(ii) or (iv) of this section. Such limitation shall apply to the sum total of sulfur dioxide emission from the smelter processing units and sulfur oxides control and removal equipment but not including uncaptured fugitive emissions and those emissions due solely to use of fuel for space heating or steam generation.

(v) All emissions from the converters and fluid-bed roasters with the exception of the uncaptured fugitive emissions, shall be processed through a facility for the removal of sulfur dioxide which meets the requirements of paragraphs (f)(4)(i)(a), (4)(ii)(a), (4)(iii)(a) and (4)(iv)(a) of this section.

(5)(i) The owner or operator of the smelters to which this paragraph is applicable shall install, calibrate, maintain and operate a measurement system(s) for continuously monitoring sulfur dioxide emissions and stack gas volumetric flow rates in each stack which emits 5% or more of the total potential (without emission controls) hourly sulfur oxides emissions from the source. For the purpose of this paragraph, "continuous monitoring" means the taking and recording of at least one measurement of sulfur dioxide concentration and stack gas flow rate reading from the effluent of each affected stack in each 15-minute period.

(ii) No later than the applicable date specified in paragraph (f)(14)(i)(c)(5) or (14)(i)(c)(6) of this section and at such other times in the future as the Administrator may reasonably specify, the sulfur doxide concentration measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix D to this Part.

(iii) No later than the applicable date specfied in paragraph (f)(1)(14)(c)(5) or (14)(i)(c)(6) of this section and at such other times in the future as the Administrator may reasonably specify, the stack gas volumetric flow rate measurement system(s) installed and used pursuant to this paragraph shall be demonstrated to meet the measurement system performance specifications prescribed in Appendix E to this Part.

(iv) The Administrator shall be notified at least 10 days in advance of the start of the field test period required in Appendices D and E to this Part to afford the Administrator the opportunity to have an observer present.

(v)(a) The sampling point shall be at least eight stack diameters (diameter measured at sampling point) downstream and two diameters upstream from any flow disturbance such as a bend, expansion, constriction or visible flame.

(b) The sampling point for monitoring emissions shall be in the duct at the centroid of the cross section if the cross sectional area is less than 4.647 m^2 (50 ft^2) or at a point no closer to the wall than 0.914 m (3 ft) if the cross sectional area is 4.647 m^2 (50 ft^2) or more. The monitor sample point shall be an area of small spatial concentration gradient and shall be representative of the concentration in the duct.

(vi) The measurement system(s) installed and used pursuant to this section shall be subjected to the manufacturer's recommended zero adjustment and calibration procedures at least once per 24-hour operating period unless the manufacturer specifies or recommends calibration at shorter intervals, in which case such specifications or recommendations shall be followed. Records of these procedures shall be made which clearly show instrument readings before and after zero adjustment and calibration.

(vii) Six-hour average sulfur dioxide concentration and emission rates shall be calculated in accordance with paragraph (f)(6) of this section, and recorded daily.

(viii) The owner or operator of the smelters subject to this paragraph shall maintain a record of all measurements required by this subparagraph. Measurement results shall be expressed in the units prescribed by the emission limitations in paragraph (f)(4) of this section. Six-hour average values calculated pursuant to paragraph (f)(6)(i) and (ii) of this section shall be reported as of each hour for the preceding six hours. The results shall be summarized monthly and shall be submitted to the Administrator within fifteen (15) days of the end of each month. A record of such measurements shall be retained for at least two years following the date of such measurements.

(6)(i) Compliance with the requirements of paragraphs (f)(4)(i)(a), (4)(ii)(a), (4)(iii)(a) and (4)(iv)(a) of this section shall be determined using the measurements system(s) installed, calibrated, maintained and operated in accordance with the requirements of paragraph (f)(5) of this section. For the stack(s) equipped with the measurement system(s) required by paragraph (f)(5) of this section and serving the sulfur dioxide removal device a 6-hour average sulfur dioxide concentration shall be calculated as of the end of each clock hour for the preceding six hours, in the following manner:

(a) Divide each 6-hour period into twenty-four 15-minute segments.

(b) Determine on a compatible basis a sulfur dioxide concentration measurement for each 15-minute period. These measurements may be obtained either by continuous integration of all measurements (from the respective affected facility) recorded during the 15-minute period or from the arithmetic average of any number of sulfur dioxide concentration readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings shall be taken in each 15-minute period and the readings shall be similarly spaced within each 15-minute period.

(c) Calculate the arithmetic average of all 24 concentration measurements in each 6-hour period. All measurements will be reported in lbs SO_2/hr.

(ii) Compliance with the requirements of paragraphs (f)(4)(i)(b), (4)(iii)(b) and (4)(iv)(b) of this section shall be detemined using the continuous measurement system(s) installed, calibrated, maintained and operated in accordance with the requirements of paragraph (f)(5) of this section. For all stacks equipped with the measurement system(s) required by paragraph (f)(5) of this section a 6-hour average sulfur dioxide emission rate shall be calculated as of the end of each clock hour for the preceding six hours, in the following manner:

(a) Divide each 6-hour period into twenty-four 15-minute segments.

(b) Determine on a compatible basis a sulfur dioxide concentration and stack gas flow rate measurement for each 15-minute period for each affected stack. These measurements may be obtained either by continuous integration of sulfur dioxide concentrations and stack gas flow rate measurements (from the respective affected facilities) recorded during the 15-minute period or from the arithmetic average of any number of sulfur dioxide concentration and stack gas flow rate readings equally spaced over the 15-minute period. In the latter case, the same number of concentration readings shall be taken in each 15-minute period and the readings shall be similarly spaced within each 15-minute period.

(c) Calculate the arithmetic average of all 24 emission rate measurements in each 6-hour period for each stack. All measurements will be reported in lbs SO_2/hr.

(d) Total the average sulfur dioxide emission rates for all affected stacks.

(iii) Notwithstanding the requirements of paragraph (f)(6)(i) of this section, compliance with the requirements of paragraphs (f)(4)(i)(a), (4)(ii)(a), (4)(iii)(a) and (4)(iv)(a) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For each stack serving any facility designed for the removal of sulfur dioxide a 6-hour average sulfur dioxide concentraiton shall be determined as follows:

(a) The test of each stack emission concentration shall be conducted while the processing units vented through such stack are operating at or above the maximum rate at which such will be operated and under such other conditions as the Administrator may specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical and computa-

tional portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the over-all test procedure.

(c) Measurements of sulfur dioxide concentration shall be made in each stack during three independent 6-hour periods. Each 6-hour period will consist of three consecutive 2-hour measurement periods. Measurements of emissions from all stacks on the smelter premises need not be conducted simultaneously. All tests must be completed within a 72-hour period.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each two hour test shall be 40 ft^3 corrected to standard conditions, dry basis.

(e) The velocity of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content can be considered to be zero.

(f) The gas sample shall be extracted at a rate proportional to gas velocity at the sampling point.

(g) The sulfur dioxide concentration in parts per million-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the six-hour values calculated pursuant to paragraph (f)(6)(iii)(c) of this section.

(iv) Notwithstanding the requirements of paragraph (f)(6)(ii) of this section, compliance with the requirements of paragraphs (f)(4)(i)(b), (4)(ii)(b), (4)(iii)(b) and (4)(iv)(b) of this section shall also be determined by using the methods described below at such times as may be specified by the Administrator. For all stacks equipped with the measurement system(s) required by paragraph (f)(5) of this section, a 6-hour average sulfur dioxide emission rate (lbs SO_2/hr) shall be determined as follows:

(a) The test of each stack emission rate shall be conducted while the processing units vented through such stack are operating at or above the maximum rate at which they will be operated and under such other conditions as the Administrator shall specify.

(b) Concentrations of sulfur dioxide in emissions shall be determined by using Method 8 as described in Part 60 of this chapter. The analytical, and computational portions of Method 8 as they relate to determination of sulfuric acid mist and sulfur trioxide as well as isokinetic sampling may be omitted from the overall test procedure.

(c) Measurements of sulfur dioxide concentrations and stack gas volumetric flow rates shall be made in each stack during three independent 6-hour periods. Each six-hour period will consist of three consecutive two-hour measurement periods. Measurements of emissions from all stacks on the smelter premises need not necessarily be conducted simultaneously. All tests must be completed within a 72-hour period.

(d) In using Method 8, traversing shall be conducted according to Method 1 as described in Part 60 of this chapter. The minimum sampling volume for each 2-hour test shall be 40 ft^3 corrected to standard conditions, dry basis.

(e) The volumetric flow rate of the total effluent from each stack evaluated shall be determined by using Method 2 as described in Part 60 of this chapter and by traversing according to Method 1. Gas analysis shall be performed by using the integrated sample technique of Method 3 as described in Part 60 of this chapter. Moisture content shall be determined by use of Method 4 as described in Part 60 of this chapter except that stack gases arising only from a sulfuric acid production unit may be considered to have zero moisture content.

(f) The gas sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(g) For each 2-hour test period, the sulfur dioxide emission rate for each stack shall be determined by multiplying the stack gas volumetric flow rate (ft^3/hr at standard conditions, dry basis) by the sulfur dioxide concentration (lb/ft^3 at standard conditions, dry basis). The emission rate in lbs/hr-maximum 6-hour average for each stack is determined by calculating the arithmetic average of the results of the three two-hour tests conducted within a six-hour period.

(h) The average emission rate from the three independent sets of measurements in lbs/hr-maximum six-hour average for each stack is determined by calculating the arithmetic average of the six-hour values calculated pursuant to subparagraph (6)(iv)(g) of this paragraph.

(i) The sum total of sulfur dioxide emissions from the smelter premises in lbs/hr is determined by adding together the emission rates (lbs/hr) from all stack equipped with the measurement system(s) required by paragraph (f)(5) of this section.

(7) The owner or operator of the smelter subject to this paragraph, in addition to meeting the emission limitation requirements of paragraph (f)(4) of this section, shall employ supplementary control systems and/or such additional control measures as may be necessary to assure the attainment and maintenance of the National Ambient Air Quality Standards for sulfur dioxide.

(i) Such measures will be limited to those specified in the application submitted pursuant to paragraph (f)(3)(i)(g) of this section.

(ii) Sulfur oxides emissions shall be curtailed whenever the potential for violating any National Ambient Air Quality Standard for sulfur dioxide is indicated at any point in a designated liability area by either of the following:

(a) Air quality measurement.

(b) Air quality prediction.

(8)(i) The designated liability area for Magma Copper Company, San Manuel, shall be identified as the area enclosed by a circle with a radius of (15) statute miles (24 km) with the center point of such circle coinciding with the tallest stack serving the affected facility.

(ii) The designated liability area for the American Smelting and Refining Company, Hayden, shall be identified as the area enclosed by a circle with a radius of (10) statute miles (16 km) with the center point of such circle coinciding with the tallest stack serving the affected facility.

(iii) The designated liability area for the Phelps Dodge Corporation, Douglas Reduction Works, shall be identified as the area enclosed by a circle with a radius of (25) statute miles (40 km) with the center point of such circle coinciding with the tallest stack serving the affected facility.

(iv) The designated liability area for the Phelps Dodge Corporation Morenci Branch, shall be identified as the area enclosed by a circle with a radius of (15) statute miles (24 km) with the center point of such circle coinciding with the tallest stack serving the affected facility.

(v) The owner or operator of the smelter subject to this paragraph may submit a detailed report which justifies redefining the designated liability area specified by the Administrator. Such a justification shall be submitted with the application submitted pursuant to paragraph (f)(3)(i) of this section and shall describe and delineate the requested designated liability area and discuss in detail the method used and the factors taken into account in the development of such area. Upon receipt and evaluation of such report, and after the public hearing described in paragraph (f)(3)(ii) of this section, the Administrator shall issue his final determination.

(ii) If new information becomes available which demonstrates that the designated liability area should be redefined, the Administrator shall consider such and if appropriate, after notice and comment, redefine the designated liability area.

(9)(i) The owner or operator of the smelter subject to the paragraph shall submit with the application submitted pursuant to paragraph (f)(3)(i) of this section, a detailed plan for the operation of a supplementary control system and such other measures as may be proposed. Such plan shall describe all air quality and emission monitoring and meteorological equipment used, including instruments installed pursuant to paragraph (f)(5) of this section for continuously monitoring and recording sulfur dioxide emissions and stack gas flow rate, the methods that will be used to determine emission rates to be achieved in association with various meteorological and air quality situations, and the general plan of investigations to be followed in developing the system and the operational manual.

(ii) Such plan shall include detailed specifications of any modifications to existing equipment including new stacks, stack extensions, stack heating systems or any process changes to be applied.

(iii) The monitoring described in the detailed plan submitted in accordance with this subparagraph and the appropriate recordkeeping requirements of paragraph (f)(12) of this section shall commence and become applicable as of the date specified in paragraph (f)(14)(i)(*b*)(*4*) of this section.

(10) The owner or operator of the smelter subject to this paragraph shall submit to the Administrator with the application submitted pursuant to paragraph (f)(3)(i), of this section, a comprehensive report of a study which demonstrates the capability of the supplementary control system, in conjunction with any other control measures, to prevent violations of National Ambient Air Quality Standards. The report shall describe a study conducted during a period of at least 120 days during which the supplementary control system was being developed and operated. The report shall:

(i) Describe the emission monitoring system and the air quality monitoring network.

(ii) Describe the meteorological sensing network and the meteorological prediction program.

(iii) Identify the frequency, characteristics, times of occurrence and durations of meteorological conditions associated with high ground-level concentrations.

(iv) Describe the methodology (e.g., dispersion modeling and measured air quality data) by which the source determines the degree of control needed under each meterological situation.

(v) Describe the method chosen to vary the emission rate, the basis for the choice, and the time required to effect a sufficient reduction in the emission rate to avoid violations of National Ambient Air Quality Standards.

(vi) Contain an estimate of the frequency that emission rate reduction is required to prevent National Ambient Air Quality Standards from being exceeded and the basis for the estimate.

(vii) Include data and results of objective reliability tests. "Reliability", as the term is applied here, refers to the ability of the supplementary control system to protect against violations of the National Ambient Air Quality Standards.

(viii) Demonstrate that the supplementary control system and other measures expected to be employed after the applicable date specified in paragraph (f)(14)(i)(c)(*5*) or (f)(14)(i)(c)(*6*) of this section will result in attainment and maintenance of National Ambient Air Quality Standards.

(11) The owner or operator of the smelter subject to this paragraph shall submit to the Administrator with the application submitted pursuant to paragraph (f)(3)(i) of this section, an operational manual for the supplementary control system. Such manual shall:

(i) Specify the number, type, and location of ambient air quality monitors, in-stack monitors and meteorological instruments to be used.

(ii) Describe techniques, methods, and criteria to be used to anticipate the onset of meteorological situations associated with ground-level concentrations in excess of National Ambient Air Quality Standards and to systematically evaluate and, as needed, improve the reliability of the supplementary control system.

(iii) Describe the criteria and procedures that will be used to determine the degree of emission control needed for each class of meteorological and air quality situations.

(iv) Specify maximum emission rates which may prevail during all probable meteorological and air quality situations, which rates shall be such that National Ambient Air Quality Standards will not be exceeded in the designated liability area. Such emission rates shall be determined by in-stack monitors. Data from such monitors shall be the basis for determining whether the emission rate provisions of the approved operational manual are adhered to.

(v) Describe specific actions that will be taken to curtail emissions when various meteorological conditions described in subsection (ii) of this subparagraph exist or are predicted and/or when specified air quality levels occur.

(vi) Identify the company personnel responsible for initiating and supervising the actions that will be taken to curtail emissions. Such personnel must be responsible, knowledgeable and able to apprise the Administrator of the status of the supplementary control system at any time the source is operating.

(vii) Be modified only if approval by the Administrator is first obtained.

(12) The owner or operator of the smelter subject to this paragraph shall:

(i) Maintain, in a usable manner, records of all measurements and reports prepared as part of the supplementary control system described in the approved operational manual. Such records shall be retained for at least two years.

(ii) Submit, on a monthly basis, the hour by hour measurements made of air quality, emissions and meteorological parameters, and all other measurements made on a periodic basis, as part of the approved supplementary control system.

(iii) Submit a monthly summary indicating all places, dates, and times when National Ambient Air Quality Standards for sulfur oxides were exceeded and the concentrations of sulfur dioxide at such times.

(iv) Notify the Administrator of any violation of National Ambient Air Quality Standards within 24 hours of the occurrence of such violation.

(v) Submit a monthly summary report describing and analyzing how the supplementary control system was operated as related to the approved operations manual and how the system will be improved, if necessary, to prevent violations of the National Ambient Air Quality Standards for sulfur oxides or to prevent any other conditions which are not in accordance with the approved operational manual.

(13)(i) The owner or operator of the smelter subject to this paragraph shall participate in a research program to develop and apply constant emission reduction technology adequate to attain and maintain the national standards. Such program shall be carried out in accordance with the plan submitted pursuant to paragraph (f)(3)(i)(*f*) of this section.

(ii) The owner or operator of the smelter subject to this paragraph shall submit annual reports on the progress of the research and development program required by subparagraph (f)(13)(i) of this section. Each report shall also include, but not be limited to, a description of the projects underway, information on the qualifications of the personnel involved, information on the funds and personnel that have been committed, and an estimated date for the installation of the constant emission reduction technology necessary to attain and maintain the National Ambient Air Quality Standards.

(14)(i) The owner or operator of the smelter subject to this paragraph shall comply with the compliance schedules specified below.

(*a*) Compliance schedule for meeting the emission reduction requirements of paragraphs (f)(4)(i), (f)(4)(ii) and (f)(4)(iv) of this section:

(*1*) No later than thirty (30) days after the date of approval to meet the requirements of this paragraph—Submit a final plan and schedule to the Administrator for meeting the requirements of paragraphs (f)(4)(i), (f)(4)(ii) and (f)(4)(iv) of this section.

(*2*) May 1, 1976—Submit a report on progress in meeting the requirements of paragraph (f)(4) of this section.

(*3*) September 1, 1976—Achieve final compliance with the requirements of paragraph (f)(4) of this section.

(*b*) Compliance schedule for meeting the emission reduction requirements of paragraph (f)(4)(iii) of this section:

(*1*) No later than thirty (30) days after the date of approval to meet the requirements of this paragraph—Submit a final plan and schedule to the Administrator for meeting the requirements of paragraph (f)(4) of this section.

(*2*) No later than thirty (30) days after the date of approval to meet the requirements of this paragraph—Let contracts or issue purchase order for emission control systems or process modifications or provide evidence that such contracts have been let.

(*3*) July 1, 1976—Initiate on-site construction or installation of emission control equipment or process change.

(*4*) July 31, 1977—Complete on-site construction or installation of constant emission control equipment or process change.

(*5*) July 31, 1977—Achieve final compliance with the requirements of paragraph (f)(4) of this section.

(*c*) Compliance schedule for implementing a supplementary control system or other measures which meet the requirements of paragraphs (f)(7), (9), (10), and (11) of this section:

(*1*) No later than sixty (60) days after approval to meet the requirements of

this paragraph—Submit to the Administrator a detailed schedule for implementation of the supplementary control system and other measures in accordance with paragraph (f)(9) of this section.

(2) July 1, 1976—Complete installation of air quality and emission monitors and meteorological equipment.

(3) July 1, 1976—Complete installation of any stack extensions or modifications of equipment approved pursuant to paragraph (f)(3) of this section.

(4) September 1, 1976—Commence record keeping and reporting requirements of paragraph (f)(12) of this section.

(5) September 1, 1976—The National Ambient Air Quality Standards for sulfur dioxide shall not be violated in the designated liability areas identified in paragraphs (f)(8)(i), (f)(8)(ii) and (f)(8)(iv) of this section.

(6) July 31, 1977—The National Ambient Air Quality Standards for sulfur dioxide shall not be violated in the designated liability area identified in paragraph (f)(8)(iii) of this section.

(ii) Any owner or operator subject to the requirements of this subparagraph shall certify to the Administrator within five (5) days after the deadline for each increment of progress whether or not the required increment of progress has been met.

(iii) Notice must be given to the Administrator at least ten (10) days prior to conducting a performance test to afford him the opportunity to have an observer present.

(iv) If the source subject to this paragraph is presently in compliance with any of the increments of progress set forth in this subparagraph, the owner or operator of such source shall certify such compliance to the Administrator within thirty (30) days of the effective date of this paragraph. The Administrator may request whatever supporting information he considers necessary to determine the validity of the certification.

(v) The owner or operator of the smelter subject to this paragraph may submit to the Administrator proposed alternative compliance schedules. Each such proposed compliance schedule shall be submitted with the application submitted pursuant to paragraph (f)(3)(i) of this section. No such compliance schedule may provide for final compliance after July 31, 1977. If approved by the Administrator, such schedule shall replace the compliance schedule set forth in this subparagraph.

(vi) Any such compliance schedule submitted to the Administrator shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to, the increments specified in the appropriate compliance schedule set forth in paragraphs (f)(14)(i)(*a*), (14)(i)(*b*) and (14)(i)(*c*) of this section.

(15)(i) The Administrator shall annually review the supplementary control system and shall deny continued use of the supplementary control system if he determines that:

(*a*) The review indicates that additional constant emission control technology has become reasonably available or that other factors which may bear on the conditions for use of a supplementary control system have changed to the extent that continued use of the supplementary control system would no longer be deemed approvable within the intent of paragraph (f)(3) of this section; or

(*b*) The source owner or operator has not demonstrated good faith efforts to follow the stated program for developing new constant emission reduction procedures; or

(*c*) The source owner or operator has not developed and employed a control program that is effective in preventing violations of National Ambient Air Quality Standards.

(ii) Prior to denying the continued use of a supplementary control system pursuant to paragraph (f)(15)(i) of this section, the Administrator shall notify the owner or operator of the smelter subject to this paragraph of his intent to deny such continued use, together with:

(*a*) The information and findings on which such intended denial is based.

(*b*) Notice of opportunity for such owner or operator to present, within arguments to the Administrator prior to his final determination.

(iii) The Administrator shall notify the owner or operator of the smelter subject to this paragraph of his final determination within thirty (30) days after the presentation of additional information or arguments, or thirty (30) days after the final date specified for such presentation if no presentation is made. If the continued use of the supplementary control system is denied, the final determination shall set forth the specific grounds for such denial.

(16) Upon denial of the continued use of a supplementary control system pursuant to paragraph (f)(15) of this section all the requirements of paragraph (e) of this section shall be immediately applicable and compliance therewith shall be achieved in accordance with such schedule as the Administrator shall order.

(17) The owner or operator of the smelter subject to this paragraph shall be in violation of a requirement of an applicable implementation plan and subject to the penalties specified in Section 113 of the Clean Air Act if:

(i) an increment of the compliance schedules set forth in paragraph (f)(14) of this section is not met by the date specified; or

(ii) the total sulfur dioxide concentration determined according to paragraph (f)(6)(i) or (ii) of this section exceeds the emission limitation set forth in paragraph (f)(4)(i)(*a*), (4)(ii)(*a*), (4)(iii)(*a*) and (4)(iv)(*a*) of this section; or

(iii) the total sulfur dioxide emission rate determined according to paragraph (f)(6)(ii) or (iv) of this section exceeds the emission limitation set forth in paragraph (f)(4)(i)1(*b*), (4)(ii)(*b*), (4)(iii)(*b*) and (4)(iv)(*b*) of this section; or

(iv) any National Ambient Air Quality Standards for sulfur oxides are violated in the designated liability area; or

(v) operations of the supplementary control system are not conducted in accordance with the approved operational manual; or

(vi) such owner or operator fails to submit any of the information required by this paragraph.

(g) *Reporting procedures for Excess Sulfur Oxides Emissions: Copper Smelters*

(1) The provisions of this paragraph are applicable to the copper smelters identified in paragraph (e) of this section.

(2) All terms used in this paragraph but not specifically defined below shall have the meaning given them in the Clean Air Act or Parts 51, 52, or 60 of this chapter.

(i) The term "excess emisions" means an emission rate which exceeds any applicable emission limitation prescribed by paragraph (e) or paragraph (f) of this section. The definition of excess emissions includes any converter or fluid bed roaster emissions that by-pass a sulfur dioxide removal facility required under the provisions of paragraph (f) of this section.

(ii) The term "malfunction" means any sudden and unavoidable failure of air pollution control equipment or process equipment to operate in a normal manner. Failure that is caused entirely or in part by poor maintenance, careless operation, or any other preventable condition shall not be considered a malfunction.

(iii) The term "start-up" means the setting into operation of any air pollution equipment or process equipment for any purpose.

(iv) The term "shutdown" means the cessation of operation of any air pollution control equipment or process equipment for any purpose.

(v) The term "scheduled maintenance" means the planned servicing or repair of any air pollution control equipment or process equipment.

(3) The owner or operator of the smelter subject to this paragraph shall notify the Region IX Office of the Environmental Protection Agency to the attention of the Director, Enforcement Division, as indicated below, when any of the applicable emission limitations in paragraph (d) or (e) of this section are not met.

(i) The owner or operator of the smelter subject to this paragraph shall evaluate the impact on air quality of any period of excess emissions and notify the Director, Enforcement Division, if any Company owned or operated ambient air quality monitors located in the vicinity of the source indicate that any 24-hour and/or 3-hour national ambient air quality standard for SO_2 has been exceeded. Such notification shall be made by telephone (415–556–0102 or 415–556–6254) within 24 hours of the occurrence

of measurements in excess of these short-term standards, and shall be confirmed by submitting written notification within five days of such occurrence.

(ii) For any period of excess emissions the owner or operator of the smelter subject to this paragraph shall submit written notification of all excess emissions for each month in which such excess emissions occur. Each monthly report shall be submitted within fifteen days following the end of each month together with the applicable monthly progress reports required by paragraph (e)(8)(viii) or (f)(5)(viii) of this section.

(iii) Each notification required pursuant to paragraph (g)(3)(ii) of this section shall include:

(a) The identity of the stack and/or other emission points where the excess emissions occurred;

(b) The magnitude of the excess emissions expressed in the units of the applicable emission limitation and the operating data and calculations used in determining the magnitude of the excess emissions;

(c) The time and duration of the excess emissions;

(d) The identity of the equipment causing the excess emissions;

(e) The nature and cause of such excess emissions; (i.e. malfunction, start-up, shutdown, scheduled maintenance, other)

(f) The measured or estimated ambient SO_2 concentrations which occurred or were expected to occur during the period;

(g) The steps taken to limit the excess emissions and the resultant impact on ambient air quality during the period of the malfunction, start-up, scheduled maintenance or shutdown.

(4)(i) The owner or operator of the smelter subject to this paragraph shall, as a part of the monthly report required by paragraph (g)(3)(ii) of this section report the following:

(a) The air pollution control equipment, process equipment or processes were at all times maintained and operated, to the maximum extent practicable, in a manner consistent with good practice for minimizing emissions;

(b) Repairs were made as expeditiously as practicable, including the use of off-shift labor and overtime.

(c) The amount and duration of the excess emissions were minimized to the maximum extent practicable during periods of such emissions;

(d) All possible steps were taken to minimize the impact of the excess emissions on ambient air quality;

(e) If the excess emissions were the result of a malfunction, the steps taken to remedy the malfunction and the steps taken or that will be taken to prevent the reoccurrence of such malfunction;

(5) In the event that the owner or operator of the smelter subject to this paragraph has been granted permission by the Administrator to use a supplementary control system pursuant to the provisions of paragraph (f) of this section, nothing in this section shall be construed to relieve the owner or operator of the smelter subject to this paragraph from his assumed liability for all violations of any applicable ambient air quality standard which occur in the designated liability area, including those violations that occur as the result of a malfunction, start-up, scheduled maintenance, or shutdown.

(6) Nothing in this section shall be construed to limit the authority of the Administrator to institute actions under Section 113 or Section 303 of the Clean Air Act.

(7) In determining the nature of and/or need for enforcement actions under the provisions of the Clean Air Act, the Administrator will give serious consideration to the information reported under paragraph (g) (3) and (4) of this section.

[FR Doc.75-28367 Filed 10-21-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

PROPOSALS FOR INCREASED PRICING FLEXIBILITY

Notice of Proposed Rulemaking and Public Hearing

I. *Introduction.* The Federal Energy Administration hereby gives notice of several proposals to amend Title 10, Part 212, Subparts E and F of the Code of Federal Regulations, in order to provide greater pricing flexibility in the current situation of continuing general adequacy of supply of petroleum products, and for other purposes. The proposals are (1) to permit limited regional pricing by refiners, resellers, and retailers, (2) to delete the once-a-month price increase limitation applicable to sales of gasoline and No. 2 oils by refiners, resellers and retailers, (3) to permit certain reallocation of product cost increases among products by resellers and retailers, and (4) to consider the impact of a recent ruling concerning prices charged that are less than the maximum price permitted under § 212.93(b) to reflect non-product cost increases of resellers and retailers (Ruling 1975-16) with a view toward possible clarification and/or modification of the regulations on either a prospective or retroactive basis. The FEA will receive written comments and hold a public hearing with respect to these proposals.

II. *Proposals.* A. *Regional pricing by refiners, resellers and retailers.* On September 6, 1974, the FEA issued a Notice proposing a number of amendments to the Mandatory Petroleum Price Regulations (30 FR 32718, September 10, 1974). One of the amendments that was proposed but on which action was deferred was a modification of the regulations to afford refiners a certain amount of "regional pricing flexibility." The proposal was made in furtherance of the overall FEA objective of permitting market forces to play a greater role in the allocation of petroleum supplies. Thus, FEA stated in its September 6, 1974 notice of proposed rulemaking:

The FEA is aware that the equal application of increased product cost requirement is responsible for an inflexibility in the price regulations which becomes more troublesome and causes more dislocations in the market as supplies of petroleum products increase and there is greater need for the price mechanism to begin to play its customary role in the market.

A principal problem with the current regulations results from the fact that some refiners market their products nationally, while others market on a regional basis. A refiner marketing on a national basis is required, for example, to add an equal increment to its May 15, 1973 prices for gasoline throughout the country. It may, however, be competing with regional marketers in one area that have prices on the average that are above its prices, while in another region, the regional marketers may have lower prices. The equal application requirement, in such circumstances, runs counter to the interests of independent regional marketers whose prices are higher than the national refiner's prices, since the national refiner would tend to expand its market at the expense of the higher-priced independent regional refiner in those circumstances.

In effect, a nationwide refiner is unable to adjust its prices on a regional basis and must, as a practical matter, choose an increment of increased product cost to add to its May 15, 1973 prices which results in selling prices that are too high to be competitive in some markets and are too low in other markets.

The FEA is aware that any relaxation of its equal application requirements on an area or regional basis could result in disproportionate passthrough of increased product costs in different regions of the country. On the other hand, there has traditionally been regional price flexibility which serves, among other things to even out supply among various regions.

This proposal was not adopted by the FEA, principally because of opposition to the proposal that was expressed by spokesmen from regions of the country where it was anticipated that higher prices—particularly for home heating oil—would result; and because certain administrative problems in implementing the proposal were foreseen.

The FEA nevertheless continues to be of the view that at least a limited amount of regional pricing flexibility should be permitted, as an essential step toward reducing the rigidity of the pricing regulations, and that it should be available both with respect to refiners and with respect to resellers.

In light of the comments submitted in the September proceeding, it appears that the best method for implementing a regional price rule for refiners would be to permit an absolute differential—rather than a percentage differential as was proposed in the September proceeding—in the amount of increased costs which may be applied to May 15, 1973 selling prices in determining the current lawful selling price of a particular product. Accordingly, a differential among regions of up to two cents per gallon in the amount of increased costs that could be applied to determine the selling price of each particular covered product is proposed.

Comments are requested on whether this is an appropriate amount of re-

gional price flexibility at current price levels. Also, in light of the comments received in the September proceeding, FEA proposes to consider the need and justification for regional price flexibility on a product-by-product basis. Thus, for example, FEA may conclude on the basis of information submitted in this proceeding that regional pricing flexibility is appropriate for gasoline, but not for No. 2 oils. In this regard, comments are specifically requested on the extent to which regional price variations occurred with respect to particular products prior to the implementation of the present system of price controls.

A principal issue with respect to regional price flexibility has been the definition of the "region" within which equal application of increased costs will continue to be required. The principal alternatives that have been suggested are the pricing regions or zones historically used by the seller concerned; individual states; PAD districts as defined in § 211.51; FEA Regions; or Standard Metropolitan Statistical Areas. The FEA has tentatively concluded that a state represents an appropriate region for this purpose.

Generally, the smaller the region, the more difficult it would be for FEA to audit and otherwise to administer its price regulation program, whereas larger regions would make auditing and administration easier. On the other hand, larger regions would afford lesser pricing flexibility than smaller regions.

A further consideration in regard to regional pricing rules for refiners is the extent to which such flexibility might afford an opportunity for refiners to grant price benefits to regions in which they have a high percentage of sales through refiner owned and operated outlets, in preference to regions where a greater percentage of sales is made through independent outlets. Comments are therefore specifically requested on the extent to which the definition of region which is selected, or other aspects of any regional pricing rule, would tend to afford such opportunity, and whether there are any factual circumstances or regulatory provisions that could or would militate against or prevent refiners from adopting regional price differentials in the manner described.

With respect to many resellers and retailers, there is less need for regional price flexibility, since many such firms operate only a single outlet, or a number of outlets within a relatively small geographical area. There are, however, some resellers and retailers that have multiple outlets located over large geographical areas.

As to such firms, the FEA has interpreted the reseller and retailer price rules to require a single firm-wide calculation of "increased costs" for each product under § 212.92, based on the weighted average unit cost of product in that firm's total inventory.

One means of implementing a regional price rule for resellers and retailers would be to permit such firms to calculate their "cost of product in inventory" pursuant to § 212.92 based on separate inventories, to the extent that such inventories were maintained pursuant to the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned. Firms that used such separate inventory calculations would be required to maintain records to show that the accounting methods used were in compliance with this requirement. Comments are therefore specifically requested as to whether this approach would be an appropriate means of affording regional pricing flexibility to resellers and retailers, or whether the proposed means of affording regional pricing flexibility for refiners would be appropriate for resellers and retailers. Also, with respect to the proposal that resellers and retailers be permitted to use more than a single firm-wide inventory for purposes of computing increased costs, comments are requested as to whether this would result generally in separate cost of inventory calculations according to the physical location of the product, according to the location of sales outlets or distribution points, or according to some other criteria.

B. *Elimination of the once-a-month price increase restriction in sales of gasoline and No. 2 oils by refiners, resellers and retailers.* The rules limiting price increases in sales of No. 2 oils and gasoline by refiners (through their marketing outlets), resellers and retailers to once each month have been in place since the Phase IV Petroleum price regulations were initially adopted by the Cost of Living Council in August, 1973. Initially, this limitation served two principal objectives. First, in a period of short supply and rising costs, it cushioned the inflationary impact that would otherwise have resulted from more rapid price increases. Second, with respect to refiners, which are on a calendar month basis for purposes of measuring increased costs and cost recovery under FEA regulations, the rule simplified FEA audit procedures.

More recently, however, in the current conditions of ample product supply, the rules have become less operationally effective and may even be having the counter-productive effect of influencing sellers to maintain prices at higher levels than they otherwise would, in the absence of such a rule.

Thus, for example, a seller may need to increase its prices early in a month. Although market conditions at the time might be such as would ordinarily lead to a minimal or less than the maximum allowable price increase, the seller has an incentive to increase its prices as much as possible because of the current prohibition against any further price increases in the same month. However, if the once-a-month rule were eliminated, the seller would not be encouraged to charge higher prices sooner (within lawful maximum allowable price levels) but would tend to hold back price increases or to institute more gradual price increases, in line with competitive market conditions.

Also, although the limitation to once-a-month price increases simplified the audit of refiner compliance with FEA price rules, the price rules with respect to resellers and retailers do not necessarily operate on a calendar month basis, and the limitation to one price increase each month has led to undue complexity and certain confusion in the application of those rules, particularly for resellers and retailers with multiple suppliers. Thus, compliance and audit of resellers and retailers would be simplified by the proposed change.

C. *Reallocation of increased costs among products by resellers and retailers.* Under the price rules applicable to refiners, a dollar-for-dollar passthrough of increased product costs is afforded by permitting the increased costs of crude oil to be allocated among the products refined from crude oil. With respect to resellers and retailers, (firms which purchase covered products and resell them without substantially changing their form) a dollar-for-dollar passthrough of increased product costs is afforded under the Reseller-Retailer price rules on a product-by-product basis without reallocation of those costs among products.

This treatment of increased cost passthrough by resellers and retailers is consistent with the fact that resellers and retailers do not change the form of the product which is purchased and resold, so that whatever increased costs are incurred in the purchase of a product are passed on in sales of the same product. On the other hand, this treatment does not afford resellers and retailers the same pricing flexibility which is afforded to refiners, and resellers and retailers are therefore more restricted in their ability to respond to market conditions than are refiners. In light of the current adequate supply levels and in an effort to help facilitate competitive pricing practices by resellers and retailers, the FEA is proposing to permit the reallocation of increased product costs among products by resellers and retailers to the same extent that increased costs may be reallocated by refiners.

Thus, under the proposal, resellers would not be permitted to reallocate any increased costs to propane or No. 2 oils; nor would they be permitted to reallocate increased costs of products other than general refinery products to general refinery products (as defined in § 212.83(c)). Resellers could, however, reallocate the increased cost of any product to prices charged for gasoline, and could also reallocate costs among general refinery products.

D. *Comments on ruling 1975-16.* FEA Ruling 1975-16 (40 FR 48034, September 4, 1975) made explicit an aspect of the reseller and retailer price regulations. The ruling states that there is no provision in the regulations whereby sellers that have not charged the higher prices permitted by § 212.93(b) to reflect nonproduct cost increases may carry forward the amounts by which their prices

have been less than those permitted by § 212.93(b), in order to charge higher prices in a subsequent time period. The ruling provides guidelines for determining the amounts which may be carried forward for future recovery, where prices charged are less than the maximum permissible amount.

Since the issuance of this ruling, comments have been received which indicate that there may have been some misunderstanding of the import of the regulations that were dealt with in the ruling and that the regulations should be modified to adopt, at least in part, the flexibility that many members of the industry apparently thought existed previously. Accordingly, FEA will receive comments in this proceeding on such proposed amendments. Comments are specifically requested on what the alternative interpretations of these regulations may have been, on the specific results of the application of the current regulations as interpreted by Ruling 1975–16, to particular firms, and on whether amendments to the regulations, if adopted, should be applied on a retroactive basis.

In this connection the FEA has included for comment a proposed new provision at § 212.93(e)(1) which would clarify the existing regulations by incorporating by express provision the basic rule enunciated in Ruling 1975–16—*i.e.*, that prices charged which are less than those permitted by § 212.93(b) do not result in amounts which can be carried forward by sellers for later use. Further revisions to § 212.93(e) are also proposed, in order to clarify this aspect of the rules providing for the dollar-for-dollar passthrough of increased product costs by resellers and retailers, and in order to conform the language of the rule to the proposed deletion of the once each month price increase restriction.

III. *Procedures for comment.* Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to one or more of the four proposals set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box ER, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation "Proposals for Increased Pricing Flexibility." Comments should also clearly indicate which of the four proposals the submission is in response to, and if in response to more than one of the four proposals covered by these proceedings, comments should be segregated on separate pages with the party's name on each page or section to facilitate separate FEA review of each proposal. Fifteen copies should be submitted. All comments received by November 6, 1975 before 4:30 p.m., e.d.t., and all relevant information, will be considered by the Federal Energy Administration before final action is taken on the proposed amendment.

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

The public hearing in this proceeding will be held at 9:30 a.m., e.d.t., on Tuesday, November 11, 1975, and will be continued, if necessary on Wednesday, November 12, 1975, in Room 2105, 2000 M St., N.W., Washington, D.C., in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in the proposed amendment issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendment, may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.d.t., on Monday, November 3, 1975. Such a request may be hand-delivered to Room 3309, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C., between the hours of 8:00 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 is a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through Friday, November 7, 1975. Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., Wednesday, November 5, 1975 and must submit 100 copies of his statement to Executive Communications, FEA, Room 2214, 2000 M St., N.W., Washington, D.C. 20461, before 4:30 p.m., e.d.t., on Monday, November 10, 1975.

The FEA reserves the right to select the persons to be heard at the hearings, to schedule their respective presentations and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Administrator's Reception Area, Room 3400, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by § 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on the proposal.

This proposal has been reviewed in accordance with Executive Order 11821, issued November 27, 1974, and has been determined not to be of a nature that requires an evaluation of its inflationary impact pursuant to Executive Order 11821.

(Emergency Petroleum Allocation Act of 1973, as amended, Pub. L. 93–159, as amended, Pub. L. 93–511, and 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, it is proposed to amend Part 212, Chapter II of Title 10 Code of Federal Regulations, as set forth below.

Issued in Washington, D.C., October 17, 1975.

DAVID G. WILSON,
Acting General Counsel
Federal Energy Administration.

1. Section 212.83 is amended in paragraph (c)(1)(i) to read as follows:

§ 212.83 Allocation of refiner's increased costs.

* * * * *

(c) *Allocation of increased product costs*—(1) *General rule*—(i) *No. 2 oils and gasoline.* In computing base prices for sales of No. 2 oils and gasoline, a refiner may increase its May 15, 1973 selling price to each class of purchaser each calendar month beginning with November 1973 by an amount to reflect the increased product costs attributable to sales of that covered product using the differential between the month of measurement and the month of May 1973, provided that the amount of increased costs used in computing a base price is calculated by use of the formula set forth in paragraph (c)(2)(i) of this section, and that the formula of paragraph (c)(2)(i) of this section is computed separately for No. 2 oils and for gasoline, and that the amount of increased product costs included in computing base prices of No. 2 oils and of gasoline is equally applied to each class of purchaser.

* * * * *

2. Section 212.83 is further amended to add a new paragraph (c)(1)(v) as follows:

§ 212.83 Allocation of refiner's increased costs.

(c) * * *

(1) * * *

(v) *Regional pricing exception to the equal application rule*

A refiner may comply with the provisions of § 212.83(c)(1) and (e)(3) as to No. 2 oils, gasoline, and each particular general refinery product by applying increased costs equally among classes of purchaser of each product within each region, and need not apply increased product costs equally among classes of purchaser of each product in different regions provided that the largest amount of increased product cost applied to the

May 15, 1973 selling price of any product in any region shall not exceed by more than two cents per gallon the amount of the increased product cost applied to the May 15, 1973 selling price of that product in any other region. For purposes of this section a region shall be a state, the District of Columbia, Puerto Rico, or a territory or possession of the United States.

* * * * *

3. Section 212.92 is revised to read as follows:

§ 212.92 Definitions.

"Increased costs" means the difference between the weighted average unit cost of a product in inventory and the weighted average unit cost of that product in inventory on May 15, 1973. If a particular product was not in inventory on May 15, 1973, the date for computing the cost is the most recent day preceding May 15, 1973, when the seller had the product in inventory. For purposes of this section, sellers may use separate inventories for a particular product provided that such separate inventories are based on the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned, and that records are maintained to show that such accounting methods meet the requirements of this section.

4. Section 212.93 is amended to delete paragraph (b)(1)(iv) and to amend paragraphs (c) and (e) to read as follows:

§ 212.93 Price rule.

* * * * *

(c) A seller that charges a price for a covered product that exceeds the weighted average price at which the product was lawfully priced by the seller in transactions on May 15, 1973 must decrease the price of that product whenever the costs of that product decrease; except to the extent that unrecovered increased costs have been carried forward pursuant to paragraph (e) of this section and are available to justify continuation of the price in effect for a covered product when the costs of that product decrease.

* * * * *

(e)(1) This paragraph and paragraph (g) of this section apply only to increased costs as defined in § 212.92 and deferred recoupment thereof. To the extent that the higher prices permitted to be charged to reflect non-product cost increases pursuant to paragraph (b) of this section are not included in a price at the time a price adjustment is made, the portion of the permissible price increase pursuant to § 212.93(b) which is not included may not be carried forward to justify a price increase in any subsequent month. Whenever a price adjustment is made, the price implemented shall be deemed to include: first, the weighted average price at which the item was lawfully priced by the seller in transactions with the class of purchaser concerned on May 15, 1973; second, increased costs of the item to the extent they are available pursuant to paragraphs (a), (e) and (g) of this section, and; third, any price increase permitted pursuant to paragraph (b) of this section to reflect non-product cost increases.

(2) Notwithstanding paragraph (a) of this section, if a seller charges prices for a particular product that result in the recoupment of less total revenues than the total amount of increased costs attributable to that product, the amount of increased cost not recouped may also be added to the May 15, 1973 selling prices of that product at the time of the next price adjustment, subject to the provisions of paragraph (g) of this section. A seller shall calculate its total amount of increased cost of a particular product not recouped since the most recent price adjustment to include the following: (i) any "increased costs" not added to the May 15, 1973 selling price at the time of the most recent price adjustment, multiplied by the volume sold since that price adjustment, plus (ii) increases in the weighted average unit cost above the weighted average unit cost which was used to calculate the most recent price adjustment, multiplied by the volume of product purchased at each such increased cost, less (iii) any decrease in the weighted average unit cost from the weighted average unit cost which was used to calculate the most recent price increase implemented after November 1, 1973 multiplied by the volume of product purchased at each such lesser cost.

(3) With respect to each covered product, when a seller calculates its amount of increased cost not recouped under this paragraph, it shall calculate its revenues as though the greatest amount of increased cost actually added to the May 15, 1973 selling price of that covered product and included in the price charged to any class of purchaser, had been added, in the same amount, to the May 15, 1973 selling price of such covered product and included in the price charged to each class of purchaser, except that, where an equal amount of increased cost is not included in the price charged to a purchaser because of a price term of a written contract covering the sale of such product which was entered into or on before September 1, 1974, such portion of the increased costs not included in the price charged to such a purchaser need not be included in the calculation of revenues.

* * * * *

5. Section 212.93 is further amended to redesignate paragraph (h) as paragraph (i) and to add a new paragraph (h) to read as follows:

§ 212.93 Price rule.

* * *

(h) *Reallocation of increased costs among products.* Notwithstanding any other provision of this Subpart, increased costs determined pursuant to paragraphs (a) and (e) of this section may be reallocated as follows: (i) *General refinery products.* To the extent that a seller does not allocate its increased costs for a general refinery product to the prices for that product, it may reallocate the unallocated part of its increased costs for that product to the prices for any other general refinery product or products and/or to gasoline, in whatever amounts the seller deems appropriate. No increased costs for general refinery products may be reallocated to the price for No. 2 oils or propane.

(ii) *No. 2 oils.* To the extent that a seller does not allocate its increased costs for No. 2 oil to the price for that product, it may reallocate the unallocated part of its increased costs for that product to the prices for gasoline, in whatever amounts the seller deems appropriate. No increased costs for No. 2 oils may be reallocated to the prices for general refinery products or propane.

(iii) *Propane.* To the extent that a seller does not allocate its increased cost for propane to the price for that product, it may reallocate the unallocated part of its increased costs for that product to the prices for general refinery products and/or gasoline, in whatever amounts the seller deems appropriate. No increased costs for propane may be reallocated to the prices for No. 2 oils.

(iv) *Gasoline.* No increased costs for gasoline may be reallocated to the prices for any other product.

* * * * *

[FR Doc.75-28497 Filed 10-17-75;4:57 pm]

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 THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

ADVISORY COMMITTEE ON DISTILLED SPIRITS PLANT SUPERVISION

Meeting

The meeting of the Advisory Committee on Distilled Spirits Plant Supervision originally scheduled for October 29 and 30, 1975, and announced in the FEDERAL REGISTER of October 8, 1975 (40 FR 47153), has been rescheduled for November 12 and 13, 1975.

The meeting will be held in Room 5041, 1200 Pennsylvania Avenue, NW., Washington, D.C., beginning at 10:00 a.m. on November 12, and at 9:30 a.m. on November 13.

The meeting will be open to the public.

Dated: October 20, 1975.

REX D. DAVIS,
Director, Bureau of Alcohol, Tobacco and Firearms.

[FR Doc.75-28625 Filed 10-21-75;9:22 am]

Office of the Secretary

[Dept. Circular, Public Debt Series—No. 31-75]

TREASURY NOTES OF SERIES N-1977

The Secretary of the Treasury announced on October 16, 1975, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 31-75, dated October 10, 1975, will be 7½ percent per annum. Accordingly, the notes are hereby redesignated 7½ percent Treasury Notes of Series N-1977. Interest on the notes will be payable at the rate of 7½ percent per annum.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.75-28411 Filed 10-21-75;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Army

ENVIRONMENTAL ADVISORY BOARD

Notice of Open Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of committee: Environmental Advisory Board, Chief of Engineers. Dates of meeting: 12 and 13 November 1975.

Place: Room 5A-092, Forrestal Building, 10th and Independence Avenue, SW, Washington, DC 20314. Time: 0900—12 November 1975, 0900—13 November 1975.

PROPOSED AGENDA

12 NOVEMBER 1975

0900—Opening Remarks.
0945—Civil Works Update.
1000—Corps Regulatory Programs.
1330—Dredged Material Research Program.
1500—Endangered Species Act.

13 NOVEMBER 1975

0900—Urban Studies Update.
1000—Civil Works Environmental Organization.
1030—Environmental Guidelines.
1330—Environmental Objectives.

Proposed attendees should notify LTC Hill, (202) 693-7093, so that adequate seating arrangements can be made.

By authority of the Secretary of the Army:

Dated: October 16, 1975.

ROBERT G. FLOWERS, Jr.,
Lt. Colonel, U.S. Army, Chief, Plans Office, TAGO.

[FR Doc.75-28388 Filed 10-21-75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Susanville, California, Multiple Use Advisory Board will hold a two day meeting beginning at 10:00 a.m. on November 18 and 19, 1975, at the Cal-Pines Lodge, Alturas, California.

Agenda items will include:

Organization of the Board.
Discussion, Multiple Use Resources.
Briefing on the Geothermal Steam Potential of the Upper Pit River Area.
Panel Discussion on Upper Pit River Geothermal Area.
On the Ground Tour of Upper Pit River Geothermal Area.
Advisory Board Recommendations on Upper Pit River Geothermal Leasing.
Determination of Priority Subjects for Future Involvement of Board.

The meeting is open to the public. Interested persons may make oral/written presentations to the Board. Such requests should be made to the official listed below at least five days prior to the meeting. Requests for additional information should be submitted to the District Manager, P.O. Box 1090, Susanville, California 96130. Telephone Number (916) 257-5385.

HERMAN KAST,
Acting District Manager.

[FR Doc.75-28425 Filed 10-21-75;8:45 am]

[NM 26709]

NEW MEXICO

Notice of Application

OCTOBER 15, 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. 29 N., R. 11 W.
Sec. 18, W½SE¼.

This pipeline will convey natural gas across .174 mile of national resource land in San Juan 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, 3550 Pan American Freeway, NE, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-28420 Filed 10-21-75;8:45 am]

[NM 26627 and 26628]

NEW MEXICO

Notice of Applications

OCTOBER 15, 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 land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 9 W.
Sec. 20, SW¼SE¼;
Sec. 34, N½SE¼ and SW¼SE¼;
Sec. 35, lots 5 and 12.

These pipelines will convey natural gas across .786 mile of national resource land in San Juan County, 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.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-28421 Filed 10-21-75;8:45 am]

[NM 26762]

NEW MEXICO

Notice of Application

OCTOBER 15, 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 land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 29 E.
Sec. 9, S½NW¼, NE¼SW¼ and NW¼SE¼.

These pipelines will convey natural gas across .673 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.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-28422 Filed 10-21-75;8:45 am]

[NM 26707]

NEW MEXICO

Notice of Application

OCTOBER 15, 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 a 4-inch natural gas pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 32 N., R. 10 W.
Sec. 31, lot 1.
T. 32 N., R. 11 W.
Sec. 25, lot 15.

This pipeline will convey natural gas across .247 mile of national resource lands in San Juan 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, 3550 Pan American Freeway, NE, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-28423 Filed 10-21-75;8:45 am]

[NM 26757 and 26758]

NEW MEXICO

Notice of Applications

OCTOBER 15, 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 two 4 inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 27 E.
Sec. 12, W½NW¼.
T. 21 S., R. 32 E.
Sec. 10, S½NE¼;
Sec. 11, SW¼NE¼ and S½NW¼.

These pipelines will convey natural gas across 1.426 miles of national resource lands in Eddy and Lea 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, P.O. Box 1397, Roswell, New Mexico, 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-28424 Filed 10-21-75;8:45 am]

National Park Service

CORONADO NATIONAL MEMORIAL, ARIZONA MASTER PLAN ENVIRONMENTAL ASSESSMENT

Notice of Intent

Notice is hereby given that the National Park Service will hold two public workshops in November in southern Arizona to provide for public involvement and citizen participation in the initial phase of developing a master plan for Coronado National Monument.

The workshops will be held on November 20, 1975 from 7 to 10 p.m. in the Cherokee Hall, Sierra Vista High School, Sierra Vista, AZ and on November 21, 1975, in the Bisbee High School Cafeteria, Bisbee, AZ.

Concurrent with the workshops the National Park Service will hold consultations with various Federal, State and local government agencies, individuals and organizations on the environmental assessment's alternatives.

The purpose of these workshops and consultations is to provide for wide public involvement, including ideas, suggestions, and comments from individuals and organizations in the formulation of a master plan for the Memorial.

Anyone wanting copies of the Master Plan Environmental Assessment, additional information on the public workshops, or the National Park Service planning process, or those wishing to submit comments on the environmental assessment may write to the Superintendent, Coronado National Memorial, Star route, Hereford, Arizona 85615.

JOHN H. DAVIS,
Acting Regional Director, Western Region, National Park Service.

OCTOBER 1, 1975.

[FR Doc.75-28567 Filed 10-21-75; 8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

DIRECTOR, PRAIRIE VILLAGE COMMODITY OFFICE OR CHIEF, FISCAL SETTLEMENTS DIVISION, AND CHIEF, DATA SYSTEMS FIELD OFFICE

Delegation of Authority With Respect to Letter of Credit

The Agricultural Stabilization and Conservation Service officials listed below are authorized to consent to reduction or cancellation of letters of credit issued, confirmed or advised to or in favor of the Commodity Credit Corporation and to draw drafts under such letters of credit against issuing, confirming or advising banks:

Director, Prairie Village Commodity Office or Chief, Fiscal Settlements Division, Prairie Village Commodity Office, 2400 West 75th Street, Shawnee Mission, Kansas 66208.

Chief, Data Systems Field Office, 8930 Ward Parkway, Kansas City, Missouri 64141.

Specimen signatures of officials presently occupying the above entitled positions and of those persons authorized to act in that capacity in their absence may be obtained by addressing a written request to the Director or Chief of the office indicated.

AUTHORITY: Sec. 4(d), 62 Stat. 1071 (15 U.S.C. 714b).

Terminated: CA-256, (35 FR 7614), published May 15, 1970.

Effective Date: October 22, 1975.

Signed at Washington, D.C. on October 14, 1975.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.75-28476 Filed 10-21-75;8:45 am]

Office of the Secretary

AGRICULTURAL RESEARCH POLICY ADVISORY COMMITTEE

Intent To Reestablish Advisory Committees

Notice is hereby given that the Department of Agriculture proposes to reestab-

lish the Agricultural Research Policy Advisory Committee and its subcommittee the National Agricultural Research Planning Committee for a 2-year period.

These are national advisory committees established by the Department of Agriculture in cooperation with the National Association of State Universities and Land Grant Colleges. Objectives of the committees include (1) developing recommendations for policy with respect to planning, evaluating, coordinating and supporting unified long-range agricultural research programs and (2) developing further the bases for State and Federal cooperation in planning research programs.

The Secretary of Agriculture determined that reestablishment of these committees is necessary and in the public interest in connection with responsibilities of the Department of Agriculture.

Comments of interested persons concerning reestablishment of these committees may be submitted to Dr. David J. Ward, Office of the Secretary, Room 359A, USDA, Washington, D.C. 20250, on or before November 6, 1975.

All written submissions made pursuant to this notice will be available for public inspection in Dr. Ward's office during regular business hours.

Dated: October 17, 1975.

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

[FR Doc.75-28477 Filed 10-21-75;8:45 am]

Forest Service

NORTH KAIBAB GRAZING ADVISORY BOARD

Notice of Meeting

The North Kaibab Grazing Advisory Board will meet at 9 a.m. November 7, 1975 at the North Kaibab Ranger District Office, Fredonia, Arizona.

The purpose of the meeting is:

1. To announce results of election for board members.
2. To elect officers.
3. To approve by-laws of the board.
4. To discuss grazing problems on the Kanab Creek Allotment.

The meeting will be open to the public. Persons who wish to attend should notify Dale Avant, District Ranger, P.O. Box 248, Fredonia, Arizona, 86022 or telephone 643-2407, 643-2405. Written statements may be filed with the board before or after the meeting.

HERMAN D. AVANT,
District Ranger, North Kaibab District, Kaibab National Forest.

OCTOBER 14, 1975.

[FR Doc.75-28382 Filed 10-21-75;8:45 am]

Packers and Stockyards Administration

LOGAN COUNTY LIVESTOCK AUCTION MAGAZINE, ARKANSAS, ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds and Reports Branch, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

AR-153—Logan County Livestock Auction Magazine, Arkansas.
CA-168—Overland Stock Yards Hanford, California.
ME-104—Crossman Livestock Sales Corinna, Maine.
MO-241—Olean Livestock Market, Inc. Eldon, Missouri.
NY-155—Tyrell's Livestock Market Utica, New York.
PA-150—Sarah E. Fisher's Sales McVeytown, Pennsylvania.
UT-115—Richfield Auction Co. Monroe, Utah.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in Section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, United States Department of Agriculture, Washington, D.C. 20250, by November 6, 1975.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

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

EDWARD L. THOMPSON,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.75-28394 Filed 10-21-75;8:45 am]

Soil Conservation Service

GREAT CREEK WATERSHED PROJECT, VIRGINIA

Notice of Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental impact statement for the Great Creek Watershed Project, Brunswick and Lunenburg Counties, Virginia, USDA-SCS-EIS-WS-(ADM)-76-2-(D)-VA.

The environmental impact statement concerns a plan for watershed protection, flood prevention, and municipal and industrial water storage. The planned works of improvement include conservation land treatment, supplemented by one multiple-purpose structure for floodwater, sediment and municipal water supply storage.

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

Soil Conservation Service, USDA, Room 9026, Federal Building, 400 North 8th Street, Richmond, Virginia 23240

Copies of the draft environmental impact statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Great Creek Watershed Project, Virginia
Notice of Availability of Draft Environmental Impact Statement

Comments concerning the proposed action or requests for additional information should be addressed to D. N. Grimwood, State Conservationist, Soil Conservation Service, P.O. Box 10026, Richmond, Virginia 23240.

Comments must be received on or before December 12, 1975, in order to be considered in the preparation of the final environmental impact statement.

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

KARL R. KLINGELHOFER,
Acting Deputy Administrator for Water Resources Soil Conservation Service.

OCTOBER 15, 1975.

[FR Doc.75-28385 Filed 10-21-75;8:45 am]

LITTLE BLACK WATERSHED PROJECTS, MISSOURI-ARKANSAS

Notice of Availability of Final Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; Part 1500 of the Council on Environmental Quality Guidelines (38 FR 20550, August 1, 1973); and Part 650 of the Soil Conservation Service Guidelines (39 FR 19650, June 3, 1974); the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental impact statement (EIS) for the Little Black Watershed Projects; Butler, Carter, and Ripley Counties, Missouri; and Clay County, Arkansas; USDA-SCS-EIS-WS-(ADM)-75-8-(F)-MO.

The EIS concerns two interrelated plans for watershed protection, flood prevention, agricultural water management (drainage), and nonagricultural water management (recreation). The planned works of improvement provide for conservation land treatment, 24 floodwater retarding structures, one multiple-purpose reservoir with capacity for floodwater retarding and nonagricultural water management (recreation), and approximately 85.5 miles of channel work. The channel work will involve clearing and debris removal on 1.3 miles of Little Black River, 1.4 miles of enlargement on Little Black River, 79.8

miles of enlargement of existing man-made channels and 3.0 miles of new channel. The 85.5 miles of channel work will decrease flooding and provide improved water.

Little Black Watershed Projects, Missouri, Arkansas, Notice of Availability of, Final Environmental Impact Statement

management on a delta area that is 89 percent agricultural cropland and pastureland. Of the 82.5 miles of work proposed on existing streams or channels, 4.7 miles will involve perennial flow, 37 miles of intermittent flow and 40.8 miles of ephemeral flow. The 3.0 miles of new channel will consist of 1.3 miles of floodway and 1.7 miles for connecting existing ditches. The recreation developments will provide 94,480 visitor days of recreation annually.

The final EIS has been filed with the Council on Environmental Quality.

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

Soil Conservation Service, USDA, P.O. Box 459 Parkade Plaza Shopping Center, Terrace Level Columbia, Missouri 65201

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

KARL R. KLINGELHOFER,
Acting Deputy Administrator for Water Resources Soil Conservation Service.

OCTOBER 15, 1975

[FR Doc.75-28384 Filed 10-21-75;8:45 am]

UPPER SALT CREEK WATERSHED PROJECT, KANSAS

Notice of Availability of Negative Declaration

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6(e) of the Council on Environmental Quality Guidelines (38 FR 20550) August 1, 1973; and part 650.8 (b)(3) of the Soil Conservation Service Guidelines (39 FR 19651) June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Upper Salt Creek Watershed Project, Lincoln and Mitchell Counties, Kansas.

The environmental assessment of this Federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Robert K. Griffin, State Conservationist, Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining planned works of improvement as described in the negative declaration include conservation land treatment supplemented by 33 floodwater retarding structures.

Upper Salt Creek Watershed Project, Kansas, Notice of Availability of Negative Declaration

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

Soil Conservation Service, USDA, 760 S. Broadway, Salina, Kansas 67401

The negative declaration is available for single copy requests. Requests should be sent to the above address.

No administrative action on implementation of the proposal will be taken until November 6, 1975.

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

KARL R. KLINGELHOFER,
Acting Deputy Administrator for Water Resources Soil Conservation Service.

OCTOBER 15, 1975.

[FR Doc.75-28386 Filed 10-21-75;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of Census

VOTING RIGHTS ACT AMENDMENTS OF 1975

Partial List of Determinations

CROSS REFERENCE: For a document issued jointly by the Department of Commerce, Census Bureau, and the Department of Justice, on the subject of the Voting Rights Act Amendments of 1975, see FR Doc. 75-28650 appearing in the notices section of this issue under the Department of Justice.

Domestic and International Business Administration

HILLCREST BAPTIST HOSPITAL ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act (40 FR 12253 et seq, 15 CFR 701, 1975) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00152-33-90000. Applicant: Hillcrest Baptist Hospital, 3000 Herring, Waco, Texas 76708. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for examination of the intracranial contents of human patients. Intracranial hemorrhage in emergency patients with cerebral-vascular accidents will be studied. The article will also be used for teaching computerized axial tomography to staff physicians and resident physicians. Application received by Commissioner of Customs: October 3, 1975.

Docket number: 76-00153-33-90000. Applicant: St. Jude Hospital, 101 E. Valencia Mesa Drive, Fullerton, CA 92635. Article: EMI Scanner System with Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for diagnosis of various conditions affecting the human brain by non-invasive techniques for comparison with invasive techniques. Application received by Commissioner of Customs: October 3, 1975.

Docket number: 76-00154-99-46040. Applicant: Wellesley College, Wellesley, Massachusetts 02181. Article: Electron Microscope, Model EM9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for educating undergraduate students in electron microscopy using a variety of animal and plant tissues in the following biological science courses:

Biology 319—Biological Ultrastructure—emphasizing a refinement of thin-sectioning particularly of mammalian tissues.

Biology 370 and 350—Honors Thesis and Independent Research Biology 211 Developmental Plant Anatomy—concerned with the cells and tissues that make up the plant body.

Biology 313—Cytology and Physiology of Microorganisms—Identification of fractional cell components such as plastids, mitochondria, and other organelles.

Application received by Commissioner of Customs: October 3, 1975.

Docket number: 76-00155-33-07700. Applicant: University of Pennsylvania, Department of Pharmacology, School of Medicine, 36th & Hamilton Walk, Philadelphia, Pennsylvania 19174. Article: Instrumentation Camera, Model PC-2A with standard accessories. Manufacturer: Nihon Kohden, Japan. Intended use of article: The article is intended to be used for an ongoing study of the interaction of divalent ions with drugs at the cell surface and within. The effects of pharmacological agents on skeletal muscle will be determined. Students who are candidates for the Ph.D. degree in pharmacology will be taught to use electrophysiological techniques in the investigation of the interaction of drugs with cell membranes. Application received by Commissioner of Customs: October 3, 1975.

Docket number: 76-00156-33-46040. Applicant: Medical University of South

Carolina, 80 Barre Street, Charleston, S.C. 29401. Article: Electron Microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the study of surface and internal membranes of the protozoan *Entamoeba histolytica* with special interest in the formation of phagocytic vacuoles by surface membranes and the transport of pagocytosed substances to the interior of the cell for digestion. Another research project concerns the study of the effects of the antibiotics lincomycin and clindamycin on large intestinal mucosal epithelium, in which histological changes, as seen in 1 μ thick sections of plastic-embedded intestinal mucosal tissue viewed with the light microscope, will be compared with ultrastructural alterations in the same areas. The article will also be used in teaching a course entitled, "Techniques and Theory in Biological Electron Microscopy" which will cover the theoretical aspects of electron microscopy, applied techniques in specimen preparation and instruction in the operation and use of the electron microscope. In another course entitled "Ultrastructure of Organisms Parasitic to Man" the article will be used by graduate students in their research projects. Application received by Commissioner of Customs: October 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.75-28408 Filed 10-21-75;8:45 am]

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq, 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76-00016-98-40500. Applicant: Purdue University, Lafayette, In. 47907. Article: Model MK2 cube interferometer. Manufacturer: Sir Howard Grubb Parsons and Co. Ltd., United Kingdom. Intended use of article: The article is intended to be used to carry out studies of the following:

(1) Excitation spectra using amplitude fourier spectroscopy in order to detect predicted collective modes in dipolar liquids ($f<250$ cm.$^{-1}$).

(2) The normal modes of RNA and DNA in the far infrared ($f<200$ cm^{-1}) in order to compare them with what is predicted by theory.

(3) Excitation spectra of localized states in silver halides and semiconductors.

(4) High frequency dielectric constant of super ionic conductors.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The National Bureau of Standards advises in its memorandum dated October 3, 1975 that the specification of a cube interferometer (the article) with a phase modulation attachment is pertinent to the applicant's intended purposes. NBS also advises that (1) it knows of no comparable domestic instrument which matches the pertinent specification of the article and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended uses.

(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.75-28407 Filed 10-21-75;8:45 am]

STATE UNIVERSITY OF NEW YORK, BROOKLYN

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq., 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 75-00271-33-84600. Applicant: State University of New York, Downstate Medical Center, 450 Clarkson Avenue, Brooklyn, N.Y. 11203. Article: Parnavac Vacuum Forming Machine, Model 2420. Manufacturer: Parnavac Parnall & Sons, Ltd., United Kingdom. Intended use of article: The article is intended to be used to fabricate plastic shells for the assurance of proper beam direction in the treatment of cancer by radiation teletherapy. The article will also be used for the instruction of residents in the Department of Radiation Therapy. The development of techniques for the making of plastic molds for each patient will enable the residents to learn and practice increased accuracy in the treatment of cancer patients.

Comments: No comments have been received with respect to this application.

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended t obe used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 74-00458-33-84600 which was denied without prejudice to resubmission on August 7, 1974 for informational deficiencies. The applicant in response to Question 8 alleges that the foreign article provides the following pertinent feature: a 12-inch drape vacuum forming machine which is accurate as well as more reliable and less expensive than one which might be available on a custom basis from a domestic manufacturer. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated March 3, 1975 that domestic draw [Vacuum Forming] machines manufactured by AAA Plastic Equipment Inc., P.O. Box 11512, Forth Worth, Texas 76110 (AAA) are the most closely comparable domestic instruments or apparatus. HEW further advises that the applicant provides no pertinent specification within the meaning of Subsection 301.2(n) of the regulations upon which duty-free entry could be based.

Moreover, the Department notes that the applicant's allegations concerning the cost of a custom-made domestic machine and its "uncertain" reliability are cost related considerations and not pertinent specifications within the meaning of our regulations (15 CFR § 301.2(n)). As to the specific allegations of the applicant in reply to Question 8, HEW advises that AAA has two 12-inch depth of draw machines, the Model MBE-2121 and the Model MBE-2436. HEW further advises either of the domestic machines, or others that could be cited, are scientifically equivalent to the article for the work planned.

For these reasons, we find that either the Model MBE-2121 or the Model MBE-2436 is of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

(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.75-28409 Filed 10-21-75;8:45 am]

U. OF TEX. HEALTH SCIENCE CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq. 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00588-00-46040. Applicant: University of Texas Health Science Center at Dallas, Dept. of Pathology, 5323 Harry Hines Boulevard, Dallas, Texas, 75235. Article: ASID-4S High Resolution Scanning Device. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is an accessory to an existing electron microscope manufactured by the same manufacturer which will provide a most versatile research microscope with capabilities for scanning transmission and secondary scanning as well as transmission microscopy. The microscope with this accessory will be used in a variety of projects involving normal and diseased tissue specimens. A number of projects involve scanning microscopic study of cell surface alteration of cancer cells and heart muscle cells. The article will also be used for instruction of pathology residents in the latest techniques of electron microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a compatible accessory for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar accessory being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(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.75-28410 Filed 10-21-75;8:45 am]

(Commerce Department documents continued on page 49397.)

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Meeting

Notice of public meeting of the Information Resources Committee, the Federal Policy and Practices Committee, the Program Committee and the Legislation Committee of the Advisory Council on Women's Educational Programs.

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meetings of Committees of the Advisory Council on Women's Educational Programs will be held at the Howard Johnson Motor Lodge, 2601 Virginia Avenue, NW., Washington, D.C., on November 10 and 11, 1975.

The Information Resources Committee will meet from 8:30 a.m. to 12 noon on November 10, 1975.

The Federal Policy and Practices Committee will meet from 1:30 p.m. to 5 p.m. on November 10, 1975.

The Program Committee will meet from 8:30 a.m. to 12 noon on November 11, 1975.

The Legislation Committee will meet from 1:30 p.m. to 5 p.m. on November 11, 1975.

The Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 93-380 Section 408(f)(1). The Council is mandated to (a) advise the Commissioner with respect to general policy matters relating to the administration of the Women's Educational Equity Act of 1974; (b) advise and make recommendations to the Assistant Secretary concerning the improvement of educational equity for women; (c) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to Section 408 of Public Law 93-380, including criteria developed to insure an appropriate distribution of approved programs and projects throughout the Nation; and (d) develop criteria for the establishment of program priorities.

The meetings of the Committees will be open to the public. The agenda for the Information Resources Committee will include (1) selection of a permanent Chairperson for the Committee, and (2) development of tentative operational plans.

The agendas for the Federal Policy and Practices Committee, the Program Committee and the Legislation Committee will all include (1) selection of permanent Chairpersons for the Committees, and (2) development of tentative statements of purpose and operational plans.

Records will be kept of all Council proceedings and will be available to the public at the Council offices at Suite 710, 1325 G Street, NW., Washington, D.C.

Signed at Washington, D.C. on October 17, 1975.

KATHLEEN MAURER,
Administrative Officer.

[FR Doc.75-28433 Filed 10-21-75;8:45 am]

National Institutes of Health

ARTERIOSCLEROSIS SPECIALIZED CENTERS OF RESEARCH (SCOR) AD HOC REVIEW COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis Specialized Centers of Research (SCOR) *ad hoc* Review Committee, National Heart and Lung Institute, November 10-11, 1975, National Institutes of Health, Building 31, Conference Room 10. This meeting will be open to the public on November 10, 1975, from 8 a.m. to approximately 8:30 a.m. to discuss administrative details and the criteria to be used in the review of the Arteriosclerosis SCOR applications. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Arteriosclerosis Specialized Centers of Research (SCOR) *ad hoc* Review Committee will be closed to the public on November 10, 1975, from 8:30 a.m. until the adjournment on November 11, 1975, for the review, discussion, and evaluation of individual initial pending and renewal grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLI, NIH, Building 31, Room 5A03, Bethesda, Maryland 20014, telephone 301/496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Henry G. Roscoe, Executive Secretary, NHLI, NIH, Westwood Building, Room 550A, telephone 301/496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

OCTOBER 14, 1975.

[FR Doc.75-28381 Filed 10-21-75;8:45 am]

ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, National Institute of Arthritis, Metabolism, and Digestive Diseases, November 24, 1975, Building 31, Conference Room 7, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on November 24 from 9 a.m. to 10 a.m. to discuss administrative reports. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552(b)(4) and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 24, 1975, from 10 a.m. to 5 p.m. for the review, discussion and evaluation of individual contract proposals. The proposals contain information of a proprietary or confidential nature, including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.

The Chief of the Office Scientific and Technical Reports, NIAMDD, NIH, Mr. Victor Wartofsky, Building 31, Room 9A04, Bethesda, Maryland 20014 (301) 496-3583 will provide summaries of the meeting and a roster of committee members.

(Catalog of Federal Domestic Assitance Program No. 13.828, National Institutes of Health)

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

OCTOBER 14, 1975.

[FR Doc.75-28379 Filed 10-21-75;8:45 am]

CONFERENCE ON THE GENETICS OF HUMAN CANCER

Notice of Meeting

Notice is hereby given of the Conference on the Genetics of Human Cancer sponsored by the National Cancer Institute and the National Foundation-March of Dimes, December 2-4, 1975, Carlton House Hotel, Orlando, Florida.

This meeting, open to the public at eight-thirty each morning to adjournment, consists of presentations and discussions by leading geneticists, epidemiologists, and laboratory scientists dealing with recent and evolving advance on the cancer in man. Attendance by the public will be limited to space available.

John J. Mulvihill, M.D., Head, Clinical Genetics Section, Epidemiology Branch, Division of Cancer, Cause, and Prevention, Landow Building, Room A521, National Cancer Institute, Bethesda, Maryland 20014, (301) 496-5067, will provide additional information.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

OCTOBER 15, 1975.

[FR Doc.75-28377 Filed 10-21-75;8:45 am]

NATIONAL ADVISORY EYE COUNCIL

Amended Notice of Meeting

Notice is hereby given of a change in the meeting on November 17 at 9 a.m., Building 31, Conference Room No. 7, of the National Advisory Eye Council, National Eye Institute, which was published in the FEDERAL REGISTER on Tuesday, October 7, 1975 (40 FR 45340).

This Council was to have convened at 9 a.m. on Monday, November 17, but has been changed to convene on Monday, November 17 at 3 p.m. As stated in the previous notice, the meeting will be held in Building 31, Conference Room No. 7. The meeting will be open to the public from 3 p.m. to 5 p.m. on Monday, and from 9 to 11:30 on Tuesday. The meeting will be closed to the public from 11:30 until adjournment on Tuesday. Also, the agenda has been revised to include a meeting of the Vision Research Program Planning Subcommittee of the National Advisory Eye Council on Monday, November 17, from 9 a.m. until 2 p.m., in Conference Room No. 7, Building 31. This meeting will be open to the public from opening until adjournment. Attendance by the public will be limited to space available.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

OCTOBER 16, 1975.

[FR Doc.75-28376 Filed 10-21-75;8:45 am]

NATIONAL CANCER ADVISORY BOARD SUBCOMMITTEE ON CENTERS

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Cancer Advisory Board Subcommittee on Centers, National Cancer Institute, on November 16, 1975, National Institutes of Health, from 7:30 p.m. to adjournment, in Building 31, Conference Room 8, Bethesda, Maryland. This meeting will be open to the public from 7:30 p.m. to 9 p.m. on November 16, 1975, to review and evaluate the cancer centers program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting of the Subcommittee will be closed to the public on November 16 from 9 p.m. to adjournment, for the review, discussion and evaluation of individual initial pending, supplemental, and renewal center grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 3A16, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meeting and roster of committee members.

Dr. Simeon Cantril, Executive Secretary, Westwood Building, Room 832, National Institutes of Health, Bethesda, Maryland 20014 (301/496-7427) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.312)

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

OCTOBER 16, 1975.

[FR Doc.75-28380 Filed 10-21-75;8:45 am]

TEMPORARY COMMITTEE FOR THE REVIEW OF DATA ON CARCINOGENICITY OF CYCLAMATE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Temporary Committee for the Review of Data on Carcinogenicity of Cyclamate, National Cancer Institute, December 10, 1975, National Institutes of Health, Building 31, Conference Room 4.

The entire meeting will be open to the public from 9 a.m. to adjournment, to review the preparation and progress of the Committee's report. Attendance by the public will be limited to space available.

Dr. James M. Sontag, Executive Secretary, Landow Building, Room A-306, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5471) will provide summaries of the meeting, substantive program information, and rosters of Committee members.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

OCTOBER 15, 1975.

[FR Doc.75-28378 Filed 10-21-75;8:45 am]

Social Security Administration

DISCLOSURE OF CERTAIN REPORTS CONCERNING THE MEDICARE PROGRAM

Modification in Delegations of Authority

Correction

In FR Doc.75-27505 appearing on page 48162 in the issue for Tuesday, October 14, 1975, the twelfth line of the first paragraph, now reading "tions of the performance carriers, inter-", should read "tions of the performance of carriers, inter-".

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Management

[Docket No. D-75-375]

REGIONAL ADMINISTRATORS, ET AL.

Redelegation of Authority With Respect to Housing Management

The Department of Housing and Urban Development published an interim rule on February 26, 1975, (40 FR 8189) adding a new Part 403, designated "Local Rent Control", to Chapter IV of Title 24, which was amended by interim rule on May 8, 1975 (40 FR 20081). Part 403 is being published as a final rule concurrently with publication of this redelegation (see Rules and Regulations Section of this issue). The final rule prescribes the conditions under which the Department will assert exclusive jurisdiction or will preempt rent regulation by local rent control boards or other authorities acting pursuant to state or local law. In the event the rentals approved by a local rent control board for an unsubsidized project with a mortgage insured or held by HUD are lower than those approved by the local HUD office, or if the local rent control board delays approving an application for a rent increase for a project on which HUD has approved a rent increase, the final rule requires the Office of Loan Management to determine whether the decision or delay of the local rent control board will jeopardize the Department's economic interest in the project. If the determination is that the Department's economic interest will be jeopardized, then a formal certification is to be issued that the Department has preempted local

rent controls for the project. Since this responsibility is reserved exclusively for the Director and Deputy Director of the Office of Loan Management, the authority for it should be excepted from the redelegation to Regional Administrators and subordinate field officials.

Accordingly, the Redelegation of Authority With Respect to Housing Management, published at 35 FR 16105 on October 14, 1970, is amended by adding a new subparagraph c to paragraph 1 of Section A to read as follows:

c. Determine that the decision or delay of a local rent control board, or other authority regulating rents pursuant to state or local law, in approving a rental increase in an unsubsidized project with a mortgage insured or held by the Department will jeopardize the Department's economic interest in the project, and issue a formal certification that the Department has preempted local rent controls as to the rentals of such project in order to protect the Department's economic interest in the project.

(Section 7(d), Department of Housing and Urban Development Act; 42 U.S.C. 3535(d))

Effective date. This delegation is effective October 22, 1975.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.75-28495 Filed 10-21-75;8:45 am]

[Docket No. D-75-376]

OFFICE OF LOAN MANAGEMENT

Redelegation of Authority and Assignment of Functions

The Department of Housing and Urban Development published an interim rule on February 26, 1975, (40 FR 8189) adding a new Part 403, designated "Local Rent Control", to Chapter IV of Title 24, which was amended by interim rule on May 8, 1975 (40 FR 20081). Part 403 is being published as a final rule concurrently with publication of this redelegation (see Rules and Regulations Section of this issue). The final rule prescribes the conditions under which the Department will assert exclusive jurisdiction or will preempt rent regulation by local rent control boards or other authorities acting pursuant to state or local law. In the event the rentals approved by a local rent control board for an unsubsidized project with a mortgage insured or held by HUD are lower than those approved by the local HUD office, or if the local rent control board delays approving an application for a rent increase for a project on which HUD has approved a rent increase, the final rule requires the Office of Loan Management to determine whether the decision or delay of the local rent control board will jeopardize the Department's economic interest in the project. If the determination is that the Department's economic interest will be jeopardized, then a formal certification is to be issued that the Department has preempted local rent controls for the project. Since this responsibility is to be reserved exclusively for the Director and Deputy Director of the Office of Loan Management, the Redelegations of Authority from the Assistant Secretary for Housing Management to the Director and Deputy Director of the Office of Loan Management have to be amended to include this responsibility and the authority to review and approve or modify rent increases approved by a HUD field office.

Accordingly, the Redelegation of Authority and Assignment of Functions, published at 35 FR 4019 on March 3, 1970, is amended by adding new paragraphs 16 and 17 to Section A to read as follows:

16. To review and approve or modify increases of rents or carrying charges approved by a HUD Regional, Area or Insuring Office.

17. To determine that the decision or delay of a local rent control board, or other authority regulating rents pursuant to state or local law, in approving a rental increase in an unsubsidized project with a mortgage insured or held by the Department will jeopardize the Department's economic interest in the project, and to issue a formal certification that the Department has preempted local rent controls as to the rentals of such project in order to protect the Department's economic interest in the project.

(Section 7(d), Department of Housing and Urban Development Act; 42 U.S.C. 3535(d))

Effective date. This delegation is effective October 22, 1975.

H. R. CRAWFORD,
Assistant Secretary for Housing Management.

[FR Doc.75-28496 Filed 10-21-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 75-142]

ENVIRONMENTAL IMPACTS

Procedures for Consideration

On December 11, 1973, there was published in the FEDERAL REGISTER (38 FR 34135) a notice of proposed procedures for consideration of environmental impacts by the Coast Guard. Interested parties were given until January 24, 1974, to comment. Two organizations forwarded comments. After full and careful consideration of these comments, the proposal was revised as set forth below.

The Sierra Club raised two objections; the first concerned paragraph 8.i.(1) of the proposal, under which applicants would provide a report that might be based on self-serving information and assumptions. Accordingly, original paragraph 8.i.(1) has been deleted. Paragraphs 8.i.(1) and 8.j.(1) now direct Program Directors at the headquarters level and District Commanders at the field level to prepare the necessary environmental assessments and impact statements or negative declarations.

The Sierra Club's second comment concerned the exemption, in paragraph 16 of enclosure 3, from the normal minimum 90 day public comment period on the draft environmental statement, if use of this period would result in "significantly increased costs of procurement to the Government." This exemption is retained; however, the Coast Guard has not yet used this exemption and will not use it without specific prior approval by the Council on Environmental Quality.

Several comments were also received from the Environmental Protection Agency (EPA). EPA recommended that paragraph 8.a.(3)(b) of the proposed instruction be revised to include the consideration of secondary effects during preparation of the impact statement. Paragraph B.1.c.(2) of enclosure (2) to the procedures incorporates this suggestion. EPA also recommended that consideration of non-point source pollution be added to the list of areas to be considered in evaluating construction impacts, in paragraph B.10. of enclosure 2. These sources are adequately covered under paragraph B.7.a. of enclosure 3.

Another EPA comment requested that the Coast Guard include a minimum 15 day public response period for negative declarations, before taking administrative action. The Coast Guard feels that imposition of this additional administrative burden is neither required nor desirable.

The Coast Guard further solicits, on a continuing basis, suggestions and recommendations for improving these environmental review procedures. All comments should be directed to: Commandant (G-WEP-2/73), U.S. Coast Guard, Washington, DC 20590.

In accordance with the Council on Environmental Quality guidelines for the preparation of environmental impact statements contained in 40 CFR 1500.3, COMMANDANT INSTRUCTION 5922.10B on Procedures for Considering Environmental Impacts is set forth below.

Dated: October 14, 1975.

O. W. SILER,
Admiral, U.S. Coast Guard Commandant.

COMMANDANT INSTRUCTION 5922.10B

PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

JULY 1, 1975.

1. *Purpose.* This instruction provides guidelines for the preparation and processing of environmental impact statements and related documents to insure consideration of the environmental effects resulting from major Coast Guard actions and to implement DOT Order 5610.1B, dated 30 September 1974.

2. *Cancellation.* Commandant Instruction 5922.10A of 13 October 1971 is cancelled.

3. *Applicability.*

a. Except as provided in subparagraph b. of this paragraph, the requirements in this Instruction, calling for the preparation as appropriate of a negative declaration or a statement pursuant to Section 102(2)(C) of NEPA, apply to all major Federal actions affecting the quality of the human environment. The actions may include, but are not limited to, the following: Grants, loans, contracts, purchases, leases, construction, research activities that have reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives, rule mak-

ing and regulatory actions, certifications, licensing, permits, plans, formal approvals, legislative proposals where the Coast Guard has primary responsibility for the subject matter involved, program proposals and any renewals or reapprovals of the foregoing.

b. Exceptions to subparagraph a. include:

(1) administrative procurements (e.g., general supplies) and contracts for personal services;

(2) normal personnel actions (e.g., promotions, hirings);

(3) project amendments (e.g., increases in costs) which do not alter the environmental impact of the action;

(4) legislative proposals *not* originating in DOT *and* relating to matters *not* the primary responsibility of the Coast Guard;

(5) reports to Congress setting forth policy recommendations which will be followed by legislative proposals;

(6) actions that are minor and have no environmental impact require neither an environmental impact statement nor a negative declaration.

c. A general class of actions may be covered by a single statement when the environmental impacts (and alternatives thereto) of all such actions are substantially similar.

4. *Background and Authority.*

a. *The National Environmental Policy Act* (NEPA) establishes a broad national policy to promote efforts to improve the relationship between man and his environment, and provides for the creation of the Council on Environmental Quality (CEQ). NEPA sets out certain policies and goals concerning the environment, and requires that, to the fullest extent possible, the policies, regulations, and public laws of the U.S. shall be interpreted and administered in accordance with those policies and goals.

b. *Section 102 of NEPA* is designed to ensure that environmental considerations are given careful attention and appropriate weight in all decisions of the Federal Government. Section 102(2)(C) requires that all agencies of the Federal Government shall:

"include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action, should it be implemented.

"Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by Section 552 of Title 5, United States Code, and shall accompany the proposal through the existing agency review processes . . ."

c. *Station 102(2)(A) of NEPA* requires all agencies of the Federal Government to "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment."

d. *Executive Order 11514*, Protection and Enhancement of Environmental Quality, dated 5 March 1970, orders all Federal agencies to initiate procedures needed to direct their policies, plans, and programs so as to meet national environmental goals.

e. *Guidelines from the President's Council on Environmental Quality*, published in 38 F.R. 20549, 40 C.F.R. 1500 et. seq., 1 August 1973, provide guidance to agencies for preparation of environmental impact statements.

f. *Section 4(f) of the DOT Act and Section 138 of Title 23, U.S.C.*, state, "It is hereby declared to be the national policy that special effort should be made to preserve the natural beauty of the countryside and public park and recreational lands, wildlife and waterfowl refuges, and historic sites. The Secretary . . . shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

g. *Section 309 of the Clean Air Act* requires the Administrator of EPA to "review and comment in writing on the environmental impact of any matter relating to duties and responsibilities granted pursuant to this Act or other provisions of the authority of the Administrator, contained in and (1) legislation proposed by any Federal department or agency, (2) newly authorized Federal projects for construction and any major Federal agency action (other than a project for construction) to which Section 102(2)(C) of P.L. 91-190 applies, and (3) proposed regulations published by any department or agency of the Federal Government."

h. *Section 106 of the National Historic Preservation Act* requires the head of any Federal agency having jurisdiction over a Federal or federally-assisted undertaking to take into account, prior to approving the undertaking, its effect on any district, site, building, structure, or object that is included in the National Register of Historic Places, and to give the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to the undertaking.

i. *Executive Order 11593, Protection and Enhancement of the Cultural Environment*, requires that Federal plans and programs contribute to the preservation and enhancement of sites, structures, and objects of historical, architectural, or archaeological significance.

j. *36 CFR Part 800 (39 FR 3365, January 25, 1974) Procedures for the Protection of Historic and Cultural Properties*, establishes procedures to ensure that historic and cultural resources are given proper consideration in the preparation of environmental impact statements.

k. *Executive Order 11296, Unified National Program for Managing Flood Losses*, requires Federal agencies to evaluate flood hazards in planning facilities, constructing buildings and facilities, disposing of lands and properties, and land use planning.

l. *The Coastal Zone Management Act of 1972* states that ". . . it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone . . ." (section 303); and requires all Federal activities affecting the zone to be carried out in a manner consistent with State coastal zone management programs (section 307).

m. *Section 2 of the Water Bank Act (P.L. 91-559)* declares that ". . . it is in the public interest to preserve, restore, and improve the wetlands of the Nation . . ."

n. *Section 2 of the Fish and Wildlife Coordination Act* requires, with certain limited exceptions, that "whenever the waters of any stream or other body of water are proposed or authorized to be . . . controlled or modified for any purpose whatever . . . by any department or agency of the United States, or by any public or private agency under Federal permit or license, such department or agency first shall consult with the United States Fish and Wildlife Service, Department of the Interior, and with the head of the agency exercising administration over the wildlife resources of the particular States wherein . . . control facility is to be constructed . . ." (subsection (a)). Reports and recommendations of the Secretary of the Interior and any other applicable officials must be included in the report prepared or submitted by the agency responsible for constructing the project to the Congress or other agency wih authority to approve the project (subsection (b)).

5. *Point of Contact.*

a. The point of contact for coordination of Coast Guard environmental matters covered in this Instruction is the Marine Environmental Protection Division (G-WEP/73).

b. The Marine Environmental Protection Branch (mep) of each district office is the point of contact for regional and local matters.

6. *Definitions and Guidelines.* Enclosures (1) through (5) set forth more specific definitions and guidelines for use with this Instruction.

7. *Procedures for Considering Environmental Effects.* An analysis of the environmental impacts of proposed activities should be undertaken concurrently with the initial technical and economic studies to ensure appropriate consideration of these impacts and of alternative courses of action in the final decision. Proposed action which *may* affect the quality of the environment require an environmental assessment to determine if the action may *significantly* affect the quality of the human environment. Significant environmental effects can be beneficial as well as detrimental. The assessment should identify the type, degree of effect, and probability of occurrence respecting primary, secondary and cumulative potential environmental impacts (positive and negative) of that action, including alternative courses thereto; however, the depth of coverage should be consistent with the magnitude of the project and its expected environmental effects. If the environmental assessment indicates that the environment may be significantly affected, an environmental impact statement will be prepared in accordance with enclosure (4). If the environmental assessment indicates no significant environmental effects and if the action is considered major, a negative declaration as described in enclosure (2) will be prepared. A section 4(f) determination may still be required even though a negative declaration is appropriate, in which case the material called for by B.2. and B.3. of enclosure (3) shall be set forth in a separate document accompanying the negative declaration. Environmental impact statements shall be submitted as early as possible. The following are examples of preparation times:

a. Construction projects. An environmental assessment shall be submitted to Com-

mandant (G-CPE) with each planning proposal. If the environmental assessment indicates that a negative declaration is appropriate, the negative declaration with the environmental assessment attached thereto shall be submitted along with the planning proposal to G-CPE, and concurrently two (2) copies of the negative declaration with the environmental assessment attached thereto shall be submitted to G-WEP. When the environmental assessment indicates that an environmental impact statement will be required for the proposed project, the draft environmental impact statement will be prepared only after the planning proposal has been approved, and will be submitted as soon after approval of the planning proposal as possible to Commandant (G-WEP). The final environmental impact statement shall be prepared on the basis of valid comments and objections received on the draft statement. The final environmental impact statement shall be submitted to G-WEP when the AC&I project proposal report is submitted for review and approval. Since no AC&I project proposal report is required for most family housing projects, the final environmental impact statements for family housing projects shall be submitted to G-WEP as soon as possible after the planning proposal has been approved, but in all cases, the environmental impact statement must be submitted before the Coast Guard budget is submitted to OMB. Appropriations may not be obligated (e.g., awarding of a construction contract) until at least 30 days after the final environmental impact statement has been made available to CEQ, to all those who commented on the draft statement, and to the general public, pursuant to the provisions of the Freedom of Information Act (5 U.S.C. Section 552). It should be available at the Headquarters and appropriate district offices and at appropriate State, regional, and metropolitan clearinghouses. (See also paragraph 8.c. regarding citizen involvement.)

b. Regulations. When an environmental impact statement is required, the draft statement should be prepared so that the public can review the statement during the review period for the proposed rules. The final statement should be made available to CEQ, all Federal, state and local agencies and public organizations who commented on the draft and the public at least 30 days prior to the effective date of the final rules. The final rules may be published in the Federal Register at the same time the final environmental impact statement is filed with CEQ; provided, however, that the final rules do not become effective for at least 30 days after the filing of the final impact statement with CEQ.

c. Permits. When an environmental impact statement is required, the final statement shall be made available to CEQ, commenting agencies, and the public at least 30 days prior to the issuance of the permit.

d. Other actions. When an environmental impact statement is required for actions other than those listed in a, b, and c, an environmental impact statement should be prepared as early as practical in the decision making process. Questions regarding this timing should be referred to Commandant (G-WEP).

8. *Action.* Although specific action assignments are listed in this paragraph, the entire expertise and experience of the Coast Guard should be utilized to assure a systematic and interdisciplinary approach in implementing NEPA. Program directors and district commanders may issue guidelines for implementing this instruction in their area of responsibility.

a. *General:* Environmental assessments, negative declarations and environmental impact statements shall be prepared as described in this instruction for all applicable actions as set forth in paragraph 3. The decision to prepare a negative declaration or environmental impact statement is the responsibility of the district commander for district initiated actions and the program director for Headquarters initiated actions. The decision to prepare a negative declaration or an environmental impact statement should be based on the evaluation of the environmental assessment. When a question arises as to the necessity of preparing a negative declaration or environmental impact statement, Commandant (G-WEP) should be contacted.

b. *Environmental impact statement.* The preparation of the environmental impact statement consists of two phases, the draft and the final. Draft environmental impact statements shall be made available to Federal, State and local agencies and to the public (5 USC 552) for a comment period of 45 days. This statement shall be made available at least 30 days prior to any hearing on the matter and at least 90 days prior to any major administrative action on the project. Final environmental impact statements shall be made available to those who commented on the draft and to the public at least 30 days prior to any administrative action on the project. If the final environmental impact statement is filed with CEQ within 90 days after the draft statement has been circulated for comment and made public, the 30-day period and 90-day period may run concurrently. CEQ usually publishes on Fridays, in the Federal Register, lists of environmental statements received during the preceding week that are available for public comment. The minimum period for public review and comment on the draft environmental impact statement is forty-five days from the date of the Federal Register notice of availability. The thirty (30) day period for each final statement begins on the day the statement is made available (date mailed) to the CEQ and to commenting parties.

c. *Citizen Involvement.* Citizen involvement in environmental matters at each pertinent stage of the development of the proposed action is encouraged. Formal and informal citizen input should be sought as early as possible. Attempts to solicit the views of the public through hearings, personal contact, press releases, maintaining mailing lists of interested parties, and other methods should be utilized. All substantive comments should be addressed in the environmental impact statement. See enclosure (4).

d. The Chief, Marine Environmental Protection Division (G-WEP) shall:

(1) Coordinate within the Coast Guard environmental matters related to this Instruction in order that an effective point of contact will exist.

(2) Coordinate and establish liaison with Federal, State and local agencies and citizens groups for the purpose of receiving comments on Coast Guard draft environment impact statements.

(3) Coordinate the review of Coast Guard environmental impact statements which are prepared within Headquarters.

(4) Upon initial receipt of a draft or final environmental impact statement or negative declaration, and prior to transmittal outside G-WEP, review to ensure compliance with this Instruction and its enclosures. Prior to transmittal of draft and final environmental impact statements to CEQ, G-WEP shall ensure that the statements appropriately reflect consideration of the reviewers' comments.

(5) Maintain and transmit quarterly to CEQ and TES a current list of all administrative actions for which environmental statements are being prepared and of all negative declarations prepared during the quarter. This list shall be made available for public inspection on request.

(6) Coordinate the review of non-Coast Guard environmental impact statements received from other Federal agencies.

(7) Transmit all draft environmental impact statements to CEQ (five copies), and the Office of the Assistant Secretary for Environment, Safety and Consumer Affairs (TES) (two copies).

(8) Upon review by Chief Counsel of all final environmental impact statements and subsequent concurrence by TES and TGC where required by DOT Order 5610.1 series, transmit statements to CEQ (five copies).

(9) Provide procedural support in the preparation and review of environmental impact statements.

(10) Maintain file copies of environmental impact statements and negative declarations prepared by the Coast Guard.

(11) Maintain mailing lists of parties interested in Coast Guard environmental impact statements to include agencies appearing in enclosure (5).

e. The Chief, Office of Marine Environment and Systems (G-W), shall:

(1) As Department of Transportation (DOT) Coordinator for Water Resources, coordinate within DOT those comments and/or reviews of environmental impact statements pertaining to water resource projects made by the various agencies within DOT (including the Coast Guard).

(2) Provide technical support in the preparation and review of environmental impact statements.

f. The Chief, Programs Division (G-CPA), shall:

(1) Ensure that the Planning and Programming Manual (CG-411) is revised as necessary to reflect the provisions outlined in this Instruction.

(2) Provide further review of budgeting actions of the type described herein to assure compliance by Program Managers.

g. The Chief Counsel (G-L) shall:

(1) Review all legislative proposals originated by program managers, together with environmental impact statements or negative declarations thereto, to ensure that they comply with the provisions of NEPA, CEQ guidelines, and this Instruction.

(2) Review recommendations or reports relating to legislation involving matters having to do with the quality of the human environment, referred by other agencies.

(3) Review all Coast Guard final environmental impact statements for legal sufficiency in accordance with DOT Order 5610.1 series.

(4) Provide advice and assistance in interpreting and applying NEPA, CEQ guidelines, and this Instruction.

h. Support Managers shall, as appropriate, provide technical support in the preparation and review of environmental impact statements so that a systematic and interdisciplinary approach may be achieved.

i. Program Directors shall:

(1) Prepare the necessary environmental assessments, impact statements or negative declarations for legislative recommendations and other actions arising at the Headquarters level in accordance with this Instruction. Forward copies of environmental impact statements (number to be determined on an individual basis) to Commandant (G-WEP) for coordination outside of the Coast Guard.

(2) Review draft and final impact statements dealing with projects in the program area prepared by the district commander and forward 15 copies to Commandant (G-WEP) for transmittal to CEQ and TES.

(3) Review negative declarations dealing with projects in the program area that have been prepared by the district commander, as well as those prepared at Headquarters, and forward a copy including the environmental assessment to Commandant (G-WEP).

j. District commanders shall:

(1) Prepare the necessary environmental assessments, impact statements or negative declarations for project and other actions originated within the district in accordance with this Instruction.

(2) When necessary, solicit comments from Federal (at the local or regional office level), State, and local agencies and citizens groups to assist in the preparation of the environmental impact statement. Unless otherwise specified, draft environmental impact statements and copies of negative declarations are to be forwarded to the responsible program manager in Headquarters.

(3) Forward two (2) copies of all negative declarations and twenty (20) copies of all draft and final environmental impact statements to the responsible program office in Headquarters.

(4) When a draft environmental impact statement has expirted, prepare the final (except CEQ), State, and local agencies and the public after receipt of notification from Commandant (G-WEP) that the statement has been filed with CEQ.

(5) After the comment period on the draft statement has expired, prepare the final statement in accordance with enclosure (4). After receipt of notification from Commandant (G-WEP) that the final statement has been filed with CEQ, supply copies of the final statement to all agencies and individuals that commented on the draft statement or requested a copy.

(6) Maintain mailing lists of parties interested in Coast Guard environmental impact statements dealing with projects within the district in accordance with enclosure (4).

(7) Maintain and transmit to Commandant (G-WEP) quarterly, a current list of all administrative actions for which environmental statements are being prepared, and for which negative declarations have been prepared. This list shall be made available to the public upon request.

(8) When environmental impact statements are received from other Federal agencies;

(a) Review and, when appropriate, comment on all environmental impact statements received from other federal agencies. Comments should be as specific, substantive and factual as possible without undue attention to matters of form of the statement. Emphasis should be placed primarily on the assessment of the environmental impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the action. Recommendations to modify the proposed action and/or new alternatives that will avoid or minimize environmental impacts may be made. Comments should be limited to Coast Guard areas of special expertise or jurisdiction by law as listed in enclosure (5). However, comments may be submitted on subjects outside Coast Guard areas, if an obvious question is raised.

(b) Those statements received by the district directly from the requesting agency, which contain technical details that are beyond the evaluation capabilities of the district staff, or are of a highly controversial nature, or which have significant effect or public interest beyond the district boundary shall be forwarded to the Commandant (G-WEP) for additional comment. In other cases, the district commander's comments shall be forwarded directly to the requesting agency, with a copy to Commandant (G-WEP), Office of Environmental Affairs, Office of the Secretary of Transportation and the Regional Secretarial Representative. Pursuant to the CEQ guidelines, five copies of the comments shall be transmitted to CEQ.

(c) In cases where more than one DOT Administration is requested to comment at regional level, the Departmental comments will be collated by the Regional DOT Secretarial Representative. When alerted by the DOT SECREP that Departmental comments are to be developed, the district commander shall provide Coast Guard comments to the DOT SECREP rather than to the requesting agency (copy to G-WEP). If there is disagreement between DOT Administrations, the Secretarial Representative will call a meeting to attempt resolution. If disagreement persists, the district commander should advise the Commandant (G-WEP) of the points at issue and provide a copy of the Coast Guard developed position.

(d) Environmental Statements received from State or local agencies. Many states have environmental policy statutes with provisions for environmental statements similar to those of NEPA. The review and comment process on the statements shall be the same as that for environmental impact statements prepared in accordance with Section 102(2)(C) of NEPA.

k. *Application of Section 102(2)(C) Procedures to Existing Projects and Programs* initiated prior to the enactment of NEPA. While the status of the work and degree of completion may be considered in determining whether to proceed with the project, it is essential that the environmental impacts of the proceeding are reassessed pursuant to NEPA policies and procedures. To this end, the evaluation of alternatives should include consideration of all alternatives reasonably available, given the status of work and degree of completion. In addition, if the project or program is continued, further incremental major actions shall be shaped so as to enhance and restore environmental quality as well as to avoid or minimize adverse environmental consequences. It is also important in further action that account be taken of environmental consequences not fully evaluated at the outset of the project or action.

1. The format and processing in enclosure (4) shall be afforded to statements or proposals subject to Section 309 of the Clean Air Act.

m. For actions which affect any district, site, building, structure or object that is included in the National Register of Historic Places, the proposal shall be referred to the Advisory Council on Historic Preservation for comment through the regional office of the National Park Service and the State Liaison Officer for Historic Preservation. See enclosure (3) for details on content.

O. W. SILER.

Encls: (1) Definitions. (2) Negative declaration. (3) Form and coptent of section 102(2)(C) statement. (4) Preparation, processing and review of section 102(2)(C) statements. (5) Areas of environmental impact and federal agencies with jurisdiction by law or special expertise to comment thereon.

DIST: (SDL No. 100) A: None. B: c(100); f(15); g(11); e(10); i(8); r(7); h(6); n(5); bklm(2); j(2); dpq(1). C: None. D: None. E: None. F: None.

ENCL (1) TO COMDTINST 5922

Definitions

1. *Actions Affected.* The environmental impact of any action must be considered. Where the environmental consequences of a proposed action are unclear but potentially significant, a statement should be prepared. It should be noted that the effects of many Federal decisions, including related Federal actions and projects in the area, can be individually limited but cumulatively considerable. This can occur when one or more agencies over a period of years puts into a project individually minor but collectively major resources, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several government agencies individually make decisions about partial aspects of a major action. In all such cases, an environmental statement should be prepared if it is reasonable to anticipate a cumulatively significant impact on the environment from the Federal action. Moreover, NEPA is not limited to adverse environmental effects; any significant effect, positive or negative, requires a statement. The Council on Environmental Quality, on the basis of a written assessment of the impacts involved, is available to assist in determining whether specific actions require impact statements ((G-WEP) will coordinate such requests).

2. *Environmental Assessment.* A report which describes the probable impact of the proposed action on the quality of the human environment. This report is used to determine the significance of the environmental impact of the proposed action.

3. *Negative Declaration.* A written statement that a proposed action has been reviewed and determined to have no significant effect upon the environment (see enclosure (2) of this Instruction).

4. *Environmental Impact Statement.* A comprehensive written report evaluating the impact of the proposed action upon the quality of the human environment.

5. *"Major Federal Action Significantly Affecting" the Quality of the Human Environment.*

a. *Any* of the following actions should ordinarily be considered major Federal actions significantly affecting the quality of the human environment:

(1) any effect that is not minimal on properties protected under section 4(f) of the DOT Act, or Section 106 of the Historic Preservation Act;

(2) any action that is likely to be highly controversial on environmental grounds;

(3) any action that is likely to have a significantly adverse impact on natural, ecological, cultural, or scenic resources of national, State or local significance;

(4) any action that is likely to be highly controversial regarding relocation of housing resources;

(5) any action that (a) divides or disrupts an established community or disrupts orderly, planned development or is inconsistent with plans or goals that have been adopted by the community in which the project is located; or (b) causes increased congestion;

(6) any action which:

(a) involves inconsistency with any Federal, State, or local standard relating to the environment; or

(b) has a significantly detrimental impact on air or water quality or on ambient noise levels for adjoining areas; or involves a possibility of contamination of public water supply systems; or effects ground water, flooding, erosion, or sedimentation;

(7) other action that causes significant environmental impact by directly or indirectly affecting human beings through adverse impacts on the environment.

6. *Significant.* The environment is to be thought of in broad terms when inquiring into whether there are likely to be significant effects. The environment is not to be considered just in terms of air or water pollution or of physical changes in the land. The environment also includes the social environment. When assessing the impact, the overall effect on the human environment must be assessed. This generally includes examining potential social as well as physical effects. Two tests should be used to determine the size of the effect. First, the extent to which

the proposed action will cause adverse effects in excess of those created by existing uses of the affected area shall be considered. The adverse effects must be considered not only in terms of their absolute magnitude, but also in terms of the existing degree of degradation in the affected area. Second, it is necessary to look at the cumulative harm that may result from the addition of the adverse effects of the proposed action to the existing environmental conditions in the affected area.

ENCL (2) TO COMDTINST 5922

Negative Declaration

1. *General.* Any proposal for an action to which this Instruction is applicable (see paragraph 5.a. of this Instruction,) and which will not have a significant impact on the environment will require a negative declaration. Negative declarations need not be coordinated outside the Coast Guard, but must be made available to the public upon request. Negative declarations must be supported by an environmental assessment which contains sufficient documentation so that the basis for the determination that the proposed action does not have a significant impact on the environment is clear. However, if the Coast Guard decides that an environmental statement is not necessary for the proposed action (a) which has been identified as normally requiring preparation of a statement, (b) which is similar to actions for which a statement has been prepared, (c) which has been previously announced to be the subject of a statement, or (d) for which a negative declaration has been made in response to a request from CEQ, that determination shall be documented. Lists of such negative determinations, and any determinations made that preparation of a statement is not yet timely, shall be prepared and made available in the same manner as provided for lists of environmental statements under preparation.

2. All negative declarations shall be prepared in accordance with the format below. The "Identify Clearly" section should include a description of the project, action or proposal, and a summary of the environmental findings that led to the conclusion that the project, action or proposal will have no foreseeable significant impact upon the quality of the human environment. The environmental assessment supporting the negative declaration shall be attached to the negative declaration and specifically incorporated by reference to support the conclusions reached in the negative declaration.

NEGATIVE DECLARATION FOR COAST GUARD PROJECTS, ACTIONS AND PROPOSALS

The following project, action or proposal has been thoroughly reviewed and it has been determined that said project, action or proposal will have no foreseeable significant impact upon the quality of the human environment:

(IDENTIFY CLEARLY)

Date

Signature of Originator of Negative Declaration

Date

Signature of Chief, Office of Marine Environment and Systems or District Commander or designated representative (if prepared at district level)

ENCL (3) TO COMDTINST 5922

Form and Content of Section 102(2)(C) Statement

A. Form

1. Each Statement will be headed as follows: Department of Transportation, U.S. Coast Guard (Draft/Final as appropriate) Environmental Impact Statement Pursuant to Section 102(2)(C), P.L. 91-190.

2. The heading specified in paragraph 1 shall be modified to indicate that the statement also covers section 4(f) and Section 106 as appropriate.

3. All environmental impact statements, including charts, pictures, graphs, etc., contained therein, should be printed on 8 × 10½ inch paper. Care should be taken to ensure that all pages within the statement are legible when reproduced in black and white.

4. Each statement will, as a minimum, contain sections corresponding to paragraph B.1. below, supplemented as necessary to cover other matters provided in this enclosure.

5. The format for the summary to accompany draft and final environmental statements is as follows:

SUMMARY

(Check one) ( ) Draft, ( ) Final Environmental Statement, Department of Transportation, U.S. Coast Guard (name, address and telephone number of contact individual).

1. Name of Action (check one) ( ) Administrative Action. ( ) Legislative action.

2. Brief description of action indicating what State (and counties) are particularly affected.

3. Summary of environmental impacts and adverse environmental effects of the action and its alternatives.

4. List of alternatives considered.

5. a. (for draft statement). List all Federal, State, and local agencies and other parties 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. Date draft statement and final statement, if issued, were made available to the Council on Environmental Quality and the public.

B. CONTENT. The following provisions are intended to provide guidance on the content of environmental statements. This guidance is expected to be supplemented by research reports, guidance on methodology, and other material from the literature as may be pertinent to evaluation of relevant environmental factors.

1. General. The following points are to be covered, where relevant:

a. A description of the proposed action and of the environment affected, including information, summary technical data, maps and diagrams where relevant, adequate to permit an assessment of potential environmental impact by commenting offices and the public.

(1) Highly technical and specialized analyses and data should be avoided in the body of the draft impact statement. Such materials should be appropriately summarized in the body of the draft impact statement and attached as appendices or footnoted with adequate bibliographic references.

(2) The statement shall also succinctly describe the environment of the area affected as it exists prior to a proposed action, including the related Federal activities in the area, their interrelationships, and cumulative environmental impact. The amount of detail provided in such descriptions shall be commensurate with the extent and expected impact of the action, and with the amount of information required at the particular level of decision making (planning, feasibility, design, etc.). In order to insure accurate descriptions and environmental assessments, site visits shall be made where appropriate.

(3) The statement shall identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or program or to determine secondary population and growth impacts resulting from the proposed action and its alternatives (see paragraph B.1.c.(2)). In discussing these population aspects, the statement shall give consideration to using the rates of growth in the region of the project contained in the projection compiled for the Water Resources Council by the Bureau of Economic Analysis of the Department of Commerce and the Economic Research Service of the Department of Agriculture (the "OBERS" projection).

(4) The sources of data used to identify, quantify, or evaluate any or all environmental consequences should be expressly noted.

b. The relationship of the proposed action and how it may conform to or conflict with adopted or proposed land use plans, policies, controls, and goals and objectives as have been promulgated by affected communities. Where a conflict or inconsistency exists, the statement should describe the extent of reconciliation and the reasons for proceeding notwithstanding the absence of full reconciliation.

c. The probable impact of the proposed action on the environment.

(1) This requires assessment of the positive and negative effects of the proposed action as it affects both the national and international environment. The attention given to the different environmental factors will vary according to the nature, scale, and location of proposed actions. Among factors to consider are the potential effect of the action on such aspects of the environment as those listed in enclosure (5) to this Instruction. Primary attention shall be given in the statement to discussing those factors most evidently impacted by the proposed action.

(2) Secondary and other foreseeable effects, as well as primary consequences for the environment, shall be included in the analysis. Secondary effects, such as impacts on existing community facilities and activities, including new facilities and activities, may often be even more substantial than the primary effects of the original action itself. For example, the effects of the proposed action on population and growth may be among the more significant secondary effects. Such population and growth impacts should be estimated and an assessment made of their effects on changes in population patterns or growth upon the resource base, including land use, water, and public services of the area in question.

d. Alternatives to the proposed action, including where relevant, those not within the existing authority of the Coast Guard. Section 102(2)(D) of the Act requires the responsible agency to "study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources."

A rigorous exploration and evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, is essential. Sufficient analysis of such alternatives and their environmental benefits, costs, and risks shall accompany the proposed action through the review process in order not to foreclose prematurely options which might have less detrimental effects. Examples of such alternatives include: The alternative of taking no action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts; low capital intensive improvements; and alternatives related to different locations or designs or details of the proposed action which would present different environmental impacts. In each case, the analysis shall be sufficiently detailed to reveal the agency's comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative. Where an existing impact statement already contains such an analysis, its treatment of alternatives may be incorporated, provided such treatment is current and relevant to the precise purpose of the proposed action.

e. Any probable adverse environmental effects which cannot be avoided, such as water or air pollution, undesirable land use patterns, or impacts on public parks and recreation areas, wildlife and waterfowl refuges, or historic sites, damage to life systems, traffic congestion, threats to health, or other consequences adverse to the environmental goals set out in section 101(b) of NEPA. This shall be a brief section summarizing in one place those effects discussed in subparagraph c. that are adverse and unavoidable under the proposed action. Included for purposes of contrast should be a clear statement of how other adverse effects will be mitigated.

f. The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section shall contain a brief discussion of the extent to which the proposed action involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa and a discussion of the extent to which the proposed action forecloses future options. In this context, short-term and long-term do not refer to any fixed time periods, but should be view in terms of the environmentally significant consequences of the proposed action.

g. Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires identification of unavoidable impacts and the extent to which the action irreversibly curtails the range or potential uses of the environment. "Resources" means not only the labor and materials devoted to an action but also the natural and cultural resources lost or destroyed.

h. An indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action identified pursuant to subparagraphs c. and e. of this paragraph. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed actions (as identified in subparagraph d. of this paragraph) that would avoid some or all of the adverse environmental effects. In this connection agencies that prepare cost-benefit analyses of proposed actions shall attach such analyses or summaries thereof, to the environmental impact statement, and shall clearly indicate the extent to which environmental costs have not been reflected in such analyses.

i. A discussion of problems and objections raised by other Federal agencies, State and local entities, and citizens in the review process, and the disposition of the issues involved and the reasons therefore. (This section may be added at the end of the review process in the final text of the environmental statement.)

(1) The draft and final statements shall document issues raised through consultations with Federal, State, and local agencies with jurisdiction or special expertise and with citizens, of actions taken in response to comments, public hearings, and other citizen involvement proceedings.

(2) Any unresolved environmental issues and efforts to resolve them through further consultations should be identified in the final statement. For instance, where the Environmental Protection Agency (EPA) rates an action or statement "3" (Inadequate Analysis), "ER" (Environmental Reservations), or "EU" (Environmentally Unacceptable), the final statement shall reflect that EPA was consulted in an effort to resolve the basis for the rating and shall state the action taken.

(3) The statement shall reflect that efforts were made to discover and discuss all major points of view on the environmental effects of the proposed action and alternatives in the draft statement. However, where opposing professional views and responsible opinions have been overlooked in the draft statement and are raised through the commenting process, the environmental effects of the action should be reviewed in light of those views. A meaningful reference should be made in the final statement to the existence of responsible opposing views not adequately discussed in the draft statement, indicating responses to the issues raised.

(4) All substantive comments received on the draft (or summaries thereof where response has been exceptionally voluminous) should be attached to the final statement, whether or not each such comment is thought to merit individual discussion in the text of the statement.

j. Draft statement shall indicate, at appropriate points in the text, underlying studies, reports, and other information obtained and considered in preparing the statement, including any cost-benefit analyses prepared. In the case of documents not likely to be easily accessible (such as internal studies or reports), the statement shall indicate how such information may be obtained. If such information is attached to the statement, care should be taken to insure that the statement remains an essentially self-contained instrument, capable of being understood by the reader without the need for undue cross reference.

2. Publicly-Owned Parklands, Recreational Areas, Wildlife and Waterfowl Areas and Historic Sites. In the event the proposed action affects or takes any land described under section 4(f) of the DOT act, furnish the following additional information in the environmental statement:

a. Description of any "publicly owned land from a public park, recreational area or wildlife and waterfowl refuge" or "any land from an historic site" affected or taken by the project, including its size, available activities, use, patronage, unique or irreplaceable qualities, relationship to other similarly used lands in the vicinity of the project, maps, plans, slides, photographs, and drawings showing in sufficient scale and detail the project. This also includes its impact on park, recreation, wildlife, or historic areas, and changes in vehicular or pedestrian access.

b. Statement of the "national, State, or local significance" of the entire park, recreational area, refuge, or historic site "as determined by the Federal, State or local officials having jurisdiction thereof." In the absence of such a statement, lands will be presumed to be significant. Any statement of insignificance by the official having jurisdiction is reviewed by the Department as to whether such statement is capricious. Where Federal lands are administered for multiple uses, the Federal official having jurisdiction over the lands or, if appropriate, any other Federal agency with special expertise in making the determination of such use, shall determine whether the subject lands are in fact being used for park, recreation, wildlife, waterfowl, or historic purposes.

c. Similar data, as appropriate, for alternative designs and locations, including detailed cost estimates (with figures showing percentage differences in total project costs), technical feasibility, and appropriate analysis of the alternatives, including any unique problems present and evidence that the cost or community disruption resulting from alternative routes would reach extraordinary magnitudes. This portion of the statement shall demonstrate compliance with the Supreme Court's statement in the Overton Park case, as follows:

"The very existence of the statute indicates that protection of parklands was to be given paramount importance. The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative routes reached extraordinary magnitudes. If the statutes are to have any meaning, the Secretary cannot approve the destruction of parkland unless he finds that the alternative routes present unique problems."

d. If there is no feasible and prudent alternative, description of all planning undertaken to minimize harm to the protected area and statement of actions taken or to be taken to implement this planning, including measures to maintain or enhance the natural beauty of the lands traversed.

(1) Measures to minimize harm may include replacement of land and facilities, providing land or facilities, or provision for functional replacement of the facility (see 49 C.F.R. 25.267).

(2) Design measures to minimize harm; e.g., tunneling, cut and cover, cut and fill, treatment of embankments, planting, screening, maintenance of pedestrian or bicycle paths, noise mitigation measures—all reflecting utilization of appropriate interdisciplinary design personnel.

e. Evidence of concurrence or description of efforts to obtain concurrence of Federal, State, or local officials having jurisdiction over the section 4(f) property regarding the action proposed and the measures planned to minimize harm.

f. If Federally-owned properties are involved in highway-bridge projects, the final statement shall include the result of filing a map of the proposed use of the land with the Secretary of the Department supervising the land (23 U.S.C. 317).

g. If land acquired with Federal grant money (Department of Housing and Urban Development open space or Bureau of Outdoor Recreation land and water conservation funds) is involved, the final statement shall include specific concurrence of the grantor agency.

h. The General Counsel (TGC) will determine application of section 4(f) to public interests in land, such as easements, reversions, etc.

i. A specific statement that there is no feasible and prudent alternative and that the proposal includes all possible planning to minimize harm to the "4(f) area" involved.

3. Properties and Sites of Historic and Cultural Significance. The statement should document actions taken to preserve and enhance districts, sites, buildings, structures, and objects of historical, architectural, archeological, or cultural significance affected by the action.

a. Draft environmental statements shall include identification, through consulting the National Register and applying the National Register Criteria (36 C.F.R. Part 800), of properties that are included in or eligible for inclusion in the National Register of Historic Places that may be affected by the project. The National Register is published in its entirety each February in the FEDERAL REGISTER. Monthly additions and listings of eligible properties are published in the FEDERAL REGISTER the first Tuesday of each month. The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register.

b. If application of the Advisory Council on Historic Preservation's (ACHP) Criteria of Effect (36 C.F.R. Part 800) indicates that the project will have an effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the draft environmental statement should document the effect. Evaluation of the effect should be made in consultation with the State Historic Preservation Officer (SHPO) and in accordance with the ACHP's Criteria of Adverse Effect (36 C.F.R. Part 800).

c. Determinations of no adverse effect should be documented in the draft statement with evidence of the application of the ACHP's Criteria of Adverse Effect, the views of the appropriate State Historic Preservation Officer (SHPO) and submission of the determination to the ACHP for review.

d. If the project will have an adverse effect upon a property included in or eligible for inclusion in the National Register of Historic Places, the final environmental statement should include either an executed Memorandum of Agreement or comments from the Council after consideration of the project at a meeting of the ACHP and an account of actions to be taken in response to the comments of the ACHP. Procedures for obtaining a Memorandum of Agreement and the comments of the Council are found in 36 C.F.R. Part 800.

e. To determine whether the project will have an effect on properties of State or local historical, architectural, archaeological, or cultural significance not included in or eligible for inclusion in the National Register, the responsible official shall consult with the State Historic Preservation Officer, with the local official having jurisdiction of the property, and where appropriate, with historical societies, museums, or academic institutions having expertise with regard to the property. Use of land from historic properties of Federal, State and local significance as determined by the official having jurisdiction thereof involves section 4(f) of the DOT Act and documentation should include information necessary to consider a 4(f) determination.

4. Impacts of the Proposed Action on the Human Environment Involving Community Disruption and Relocation. In the event that the project, proposal or action involves community disruption and relocation, the following additional information must be included in the environmental statement.

a. The statement shall include a description of probable impact sufficient to enable an understanding of the extent of the environmental and social impact of the project alternatives and consideration of whether relocation problems can be properly handled. This would include the following information obtainable by visual inspection of the proposed affected area and from secondary sources and community sources when available:

1. An estimate of the households to be displaced including the family characteristics (e.g., minorities, income levels, tenure, the elderly, large families).

2. Impact on the human environment of an action which divides or disrupts an established community, including, where pertinent, the effect of displacement on types of families and individuals affected, effect of streets cut off, separation of residences from community facilities, and separation of residential area.

3. Impact on the neighborhood and housing to which relocation is likely to take place (e.g., lack of sufficient housing for large families, doubling up).

4. An estimate of the businesses to be displaced, and the general effect of business dislocation on the economy of the community.

5. A definition of relocation housing in the area and the ability to provide adequate relocation housing for the types of families to be displaced. If the resources are insufficient to meet the estimated displacement needs, a description of the actions proposed to remedy this situation including, if necessary, use of housing of last resort.

6. Results of consulation with local officials and community groups regarding the impacts to the community affected. Relocation agencies and staff and other social agencies can help to describe probable social impacts of this proposed action.

7. When necessary, special relocation advisory services are to be provided for the elderly, handicapped and illiterate regarding interpretations of benefits, assistance in selecting replacement housing, and consultation with respect to acquiring, leasing, and occupying replacement housing.

b. This data shall provide the preliminary basis for assurance of the availability of relocation housing as required by DOT Order 5620.1 and 49 C.F.R. 25.53.

5. Considerations Relating to Pedestrians and Bicyclists. Where appropriate, the statement should discuss impacts on and consideration to be given in the development of the project to pedestrian and bicycle access and movement within the affected area, particularly in medium and high density commercial and residential areas.

6. Other Social Impacts. The general social groups specially benefitted or harmed by the proposed action should be identified in the statement, including the following:

a. Particular effects of a proposal on the elderly, handicapped, non-drivers, transit-dependent, or minorities shall be described to the extent reasonably predictable.

b. How the proposal will facilitate or inhibit their access to jobs, educational facilities, religious institutions, health and welfare services, recreational facilities, social and cultural facilities, pedestrian movement facilities, and public transit services.

7. Standards as to Noise, Air and Water Pollution. The statement shall reflect sufficient analysis to predict the effects of the proposed action on attainment and maintenance of any applicable environmental standards established by law or administrative determination including the following documentation:

a. With respect to water quality, there shall be consultation with the agency responsible for the State water pollution control program with respect to conformity with standards and regulations regarding storm sewer damage, sedimentation control, and other non-point source discharges.

b. The comments or determinations of the offices charged with administration of the State's implementation plan for air quality as to the consistency of the project with State plans for the implementation of ambient air quality standards.

c. Conformity to adopted noise standards, compatible, if appropriate, with different land uses.

8. Energy Supply and Natural Resources Development. Where applicable, the statement shall reflect consideration of whether the project or program will have any effect on either the production or consumption of energy and other natural resources, and discuss such effects if they are significant.

9. Flood Hazard Evaluation. When an alternative under consideration encroaches on a flood plain, the statement shall include evidence that studies have been made and evidence that consultations with the Corps of Engineers or the Tennessee Valley Authority, as appropriate, have been carried out. Necessary measures to handle flood hazard problems shall be described, in compliance with Executive Order 11296, dated 15 August 1974, and Flood Hazard Guidelines for Federal Executive Agencies, promulgated by the Water Resources Council.

10. Considerations Relating to Wetlands or Coastal Zones. Where wetlands or coastal zones are involved, the statement shall include:

a. Information on location, types, and extent of wetlands areas which might be affected by the proposed action.

b. An assessment of the impact resulting from construction and from operation of the project on the wetlands and associated wildlife and measures to minimize adverse impacts.

c. A statement by the local representative of the Department of the Interior, and any other responsible officials with special expertise, setting forth his views on the impacts of the project on the wetlands, the worth of the particular wetlands areas involved to the community and to the nation, and recommendations as to whether the proposed action should proceed and, if applicable, along what alternative route.

d. Where applicable, a discussion of how the proposed project relates to the State coastal zone management program for the particular State in which the project is to take place.

11. Construction Impacts. In general, adverse impacts during construction will be of less importance than long-term impacts of a proposal. Nonetheless, statements should appropriately address such matters as the following, identifying any special problem areas.

a. Noise impacts from construction and any specifications providing maximum noise levels.

b. Disposal of spoil and effect on borrow areas and disposal sites (include any specifications).

c. Measures to minimize effects on traffic and pedestrians.

d. Consideration of non-point source pollution such as might be carried in water runoff.

12. Land Use and Urban Growth. The statement shall include, to the extent relevant and predictable:

a. The effect of the project on land use, development patterns, and urban growth.

b. Where significant land use and development impacts are anticipated, identify public facilities needed to serve the new development and any problems or issues which would arise in connection with these facilities, and the comments of agencies that would provide these facilities.

ENCL (4) TO COMDTINST 5922

Preparation, Processing and Review of Section 102(2)(C) Statements

1. Citizen Involvement Procedures. Citizen involvement in environmental aspects of Coast Guard actions is encouraged at each

pertinent stage of the development of the proposed action. Formal and informal citizen input shall be encouraged as early as possible. Attempts to solicit the views of the pu..ic through hearings, personal contact, advertisements, newspaper notices, maintaining mailing lists of interested parties, and other methods shall be utilized. (DOT Order 5610.1B satisfies 44 U.S.C. 3702, which requires written authority from the head of the department to pay for publishing advertisements, notices, or proposals.) Interested parties include community, environmental, or conservation organizations or individuals affected by or known to have an interest in, or who can speak knowingly of the environmental impact of the proposed action. Lists of interested parties shall be developed. Interested parties should have adequate opportunities to express their views early enough in the study process to influence the course of study, as well as action taken. A summary of the process and any environmental issues raised shall be addressed in the environmental statement.

a. Early notification of the preparation of environmental impact statements shall be sent to interested parties and may be sent to Federal, State or local agencies to solicit comments that may be helpful in preparing the draft statement.

(1) For actions other than those where agencies send early notifications under a. above, procedures shall include an early notice system for informing the public of the decision to prepare a statement.

b. Copies of the draft environmental impact statement shall be sent to interested parties along with circulation to Federal, State and local agencies. The availability of the statement should be made known to appropriate interested parties, advertised in local papers, etc.

c. Hearings.

(1) For any action involving a public hearing, the draft statement, negative declaration or environmental analysis shall be made available to the public at least 30 days prior to the hearing. The notice of the hearing shall indicate availability of the statement or analysis.

(2) Even where not required, a hearing may help resolve environmental conflicts. In deciding whether a public hearing is appropriate, an agency shall consider:

(a) The magnitude of the proposal in terms of economic costs, environmental impact, the geographic area involved, and the uniqueness or size of commitment of the resources involved;

(b) The degree of interest in the proposal, as evidenced by requests from the public and from State, Federal and local authorities that a hearing be held;

(c) The complexity of the issue and the likelihood that information will be presented at the hearing which will be of assistance to the agency in fulfilling its responsibilities under NEPA; and,

(d) The extent to which public involvement already has been achieved through other means, such as earlier public hearings, meetings with citizen representatives, and/or written comments on the proposed action.

(3) Notification of the hearing shall announce availability of detailed information on environmental impacts through newspaper articles, direct notification to interested parties and clearinghouses, etc.

d. Informal meetings and direct contacts with interested parties shall be held early in the development process to provide the opportunity for mutual exchange of information. The objective of these actions shall be to include as many of the residents and others as possible in discussions, to identify community leaders, and to seek their recommendations.

2. Planning Stage. Initial assessment of environmental impacts of proposed activities shall be undertaken concurrently with initial technical and economic studies.

3. Scope of Statement. The scope of the action covered by the statement shall avoid "piecemealing" and be sufficiently broad so that alternatives to the proposed action can be meaningfully evaluated. Actions covered shall have independent significance and stand on their own. In certain circumstances, broad program statements will be required in order to assess the environmental effects of a number of actions in a geographical area, or environmental impacts that are generic or common to a series of actions, or the overall impact of a chain of contemplated projects.

4. Applications. Each applicant for a grant, loan, permit or other Coast Guard approval, if appropriate, may be requested to submit, together with the original application, either a draft 102(2)(C) statement or a negative declaration, or an environmental analysis of the proposed project which would be utilized in the preparation of a draft statement or negative declaration by the Coast Guard. In such event, the Coast Guard shall assist the applicant by specifying the types of information required. In all cases, the Coast Guard shall make its own evaluation of the environmbental issues and take responsibility for the scope and content of draft and final environmental statements.

5. Use of Consultants. Consultants may be utilized to prepare background or preliminary material for use in a draft or final environmental issues and take reesponsibility Guard takes responsibility. Selection of consultants and work by consultants who may expect further contracts based on the outcome of the environmental decision shall be carefully reviewed to insure complete and objective consideration of all relevant project impacts and alternatives.

6. Lead Agency. Where more than one agency directly sponsors an action, or is directly involved through funding, licenses, or permits, or is involved in a group of actions directly related to each other because of functional interdependence and geographic proximity, to the maximum extent possible one statement shall serve as the means of compliance with section 102(2)(C) for all Federal actions involved. The Coast Guard, in such cases, shall consider the possibility of joint preparation of a statement by all agencies concerned, or designation of a single "lead agency" to assume supervisory responsibility for preparation of the statement. Where a lead agency prepares the statement, the other agencies involved shall provide assistance with respect to their areas of jurisdiction and expertise. In either case, the statement shall contain an environmental assessment of the full range of Federal actions involved, shall reflect the views of all participating agencies, shall indicate what actions are to be taken by the individual agencies, and shall be prepared before major or irreversible actions have been taken by any of the participating agencies. Factors relevant to determining an appropriate lead agency include existing memoranda of understanding, the time sequence in which the agencies become involved, the magnitude of their respective involvement, and their relative expertise with respect to the project's environmental effects. As necessary, the Council on Environmental Quality will assist in resolving questions of responsibility for statement preparation in the case of multiagency actions. For projects primarily involving land owned by or under the jurisdiction of another Federal agency, the owner agency may be appropriate to be the designated lead agency. Joint preparation of environmental statements is encouraged, when appropriate. Regardless of which agency prepares the statement, the Coast Guard must be satisfied that the statement satisfies our requirements under NEPA. Involvement by the various agencies shall be documented in the statement.

7. Interdisciplinary Approach. The 102(2)(C) statement shall reflect the utilization of a "systematic, interdisciplinary approach" as required by section 102(2)(A) of NEPA. The interdisciplinary approach shall include appropriate disciplines to assure that environmental impacts are described in detail in the statement. This is to be carried out by relevant disciplines represented on the staff, or when this is not feasible, by appropriate use of relevant Federal, State, and local agencies or the professional services of universities and outside consultants. The interdisciplinary approach shall not be limited to the preparation of the environmental impact statement, but shall also be used in the early planning stages of the proposed action. Early application of such an approach shall help assure a systematic evaluation of reasonable alternative courses of actions and their potential social, economic, and environmental consequences.

8. Legislative Proposals. Before the Coast Guard makes a favorable report to the Congress on proposed draft legislation for which the Coast Guard has primary responsibility, the office which develops the Coast Guard position on the report or originates legislation shall prepare an environmental statement or negative declaration. The final text of the environmental statement and comments thereon shall be available to the Congress and to the public for consideration in connection with the proposed legislation or report. In cases where the scheduling for congressional hearings on recommendations or reports on proposals for legislation which the Federal agency has forwarded to the Congress does not allow adequate time for the completion of a final text of an environmental statement (together with comments), a draft environmental statement may be furnished to the Congress and made available to the public pending transmittal of the comments as received and the final text.

9. Draft of Statement. Draft statements shall be prepared at the earliest practical time prior to the first significant point of decision in the review process. They shall be prepared early enough in the process so that the analysis of the environmental effects and the exploration of alternatives with respect thereto are significant inputs to the decisionmaking process.

10. Processing of Environmental Statements. On actions requiring a 102(2)(c) statement, the Coast Guard shall circulate for comment the draft environmental statement to all Federal, State and local agencies and interested citizens which have jurisdiction by law or special expertise with respect to the environmental impact involved, and to the CEQ (five copies) and TES (two copies), as well as other elements of DOT where appropriate. For action within the jurisdiction of the Environmental Protection Agency (air or water quality, solid wastes, pesticides, radiation standards, noise), the proposals shall be referred to EPA for review and comment. For actions which affect any district, site, building, structure or object that is included in the National Register, the proposal shall be referred to the Advisory Council on Historic Preservation for comment through the regional office of the National Park Service and the State Liaison Office for Historic Preservation. A time period for comment on the draft statement may be specified, but not less than 45 days from the date of publication in the Federal Register of the CEQ listing notifying the public of issuance of the impact statement. An extension of time, if possible, when requested, shall be allowed. Where comments of agencies have been ob-

tained, comments need not be solicited again from the same agencies, unless there are pertinent changes in the project proposal.

a. Federal Review. Enclosure (5) to this instruction is a list of Federal agencies with special expertise or jurisdiction by law with respect to environmental impacts, to whom the draft statement shall be referred, as appropriate, for comment.

b. State and Local Review.

(1) Where review of the proposed action by State and local agencies is relevant, such State and local review shall be provided for as follows:

(a) Where review of direct Federal development projects takes place prior to preparation of an environmental statement, comments on the environmental effects of the proposed project are inputs to the environmental statement. These comments shall be attached to the draft statement when it is circulated for review and copies of the draft sent to those who commented. A-95 clearinghouses or other agencies designated by the Governor may also secure reviews on environmental statements. Clearinghouses shall in all cases be sent a copy of the draft and final environmental statements.

(b) Project applicant or the Coast Guard shall obtain comments directly from appropriate State and local agencies, except where review is secured by agreement through A-95 clearinghouses. Comments shall be solicited from municipalities and counties for all projects located therein.

(2) Environmental statements on legislative proposals are not generally subject to State and local review. Similarly, budget proposals or other internal agency proposals may be excluded from such review.

11. Utilization of Comments. Comments received on the draft statement and inputs from the process of citizen participation shall accompany the environmental statement through the normal internal project or program review process.

12. Final Statements. Draft statements shall be revised, as appropriate, to reflect comments received, issues raised through the community involvement and public hearing process, or other considerations, before being put into final form for approval of the responsible official.

13. Supplemental or Amended Statements. The Coast Guard may supplement or amend a draft or final environmental statement when substantial changes are made in a proposed action, or where significant new information regarding its environmental impacts comes to light. In any case the responsible official should consult with (G-WEP) with respect to the policy concerning possible need for or desirability of recirculation of the statement for the appropriate period.

14. Availability of Statements to the President, the CEQ, and the Public. After approval by the Program Manager, GL and DOT, G-WEP is responsible for transmitting five copies of each final statement to the CEQ, which shall be deemed transmittal to the President. The responsible officer for the environmental statement is responsible for making the final version of such statement and the comments received available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) at the Headquarters and appropriate district offices and at appropriate State, regional and metropolitan clearinghouses unless the Governor of the State involved designates some other point for receipt of this information. Notice of such designation shall be included in OMB listing of Clearinghouses. Draft and final statements shall be made available in public places such as local public libraries, and offices of preparing agencies. Copies of final statements, with comments attached, shall be sent to all Federal, State, and local agencies, private organizations and individuals who commented on the draft statement or requested copies of the final statement. If the length of the statement or the number of comments make this distribution requirement highly impractical, G-WEP shall consider an alternative arrangement, in consultation with CEQ. Materials to be made available to the public shall be provided without charge to the extent practical, or at a fee which is not more than actual cost of reproducing copies to be sent to other Federal agencies.

15. Timing of Agency Decision. To the maximum extent practicable, no administrative action (i.e., any proposed action to be taken by the agency other than agency proposals for legislation to Congress, budget proposals, or agency reports on legislation) subject to section 102(2)(C) is to be taken sooner than 90 days after a draft environmental statement has been circulated for comment, furnished to the Council and, except where advance public disclosure will result in significantly increased costs of procurement to the Government, made available to the public pursuant to these guidelines. Neither should such administrative action be taken sooner than 30 days after the final approved text of an environmental statement (together with comments) has been made available to the CEQ, commenting agencies and the public. If the final text of an environmental statement is filed within 90 days after a draft statement has been circulated for comment, furnished to the CEQ and made public pursuant to this section of these guidelines, the 30-day period and 90-day period may run concurrently to the extent that they overlap.

16. Review of Environmental Statements Prepared by Other Agencies. Other agencies may consult with the Coast Guard in preparation of environmental statements. The purpose of Coast Guard review of and comment on environmental statements drafted by other agencies is to provide constructive assistance on proposals relating to functional areas of responsibility and expertise of the Coast Guard. The responsibility of the commenting official will generally be limited to the provision of a competent and cooperative advisory and consultant service. Review of Statements prepared by other agencies will consider the environmental impact of the proposal on areas within the Coast Guard's functional area of responsibility or special expertise as listed in enclosure (5) to this instruction.

a. Comments shall be organized in a manner consistent with the structure of the draft statement and may include alternatives or modifications that will enhance environmental quality or avoid or minimize adverse environmental impacts.

b. Coast Guard projects that are environmentally related to the proposed action shall be indicated so interrelationships may be included in the final statement.

c. Environmental monitoring for which the Coast Guard has special expertise may be suggested and encouraged during construction, start-up, and operation phases.

d. The following matters should be referred to Commandant (G-WEP) for comment:

(1) Actions with national policy implications.

(2) Projects that involve natural, ecological, cultural, scenic, historic, or park or recreation resources of national significance.

(3) Legislation, regulations having national impacts, or national program proposals.

(4) Projects regarding the transportation of hazardous materials and natural gas and liquid-products pipelines.

17. Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provision of these guidelines concerning minimum periods for agency review and advance availability of environmental statements, G-WEP shall consult with TES and CEQ about alternative arrangements.

18. Implementation of Representations in Environmental Impact Statements. District commanders and program directors shall assure, through funding agreements and project review procedures, that any actions set forth in an approved impact statement to minimize adverse environmental affects are carried out. Any proposed deviation from the prescribed action that may reduce protection of the environment must be submitted to G-WEP for concurrence, and to TES, via G-WEP, for concurrence if the statement was concurred in by TES.

ENCL (5) TO COMDTINST 5922

AREAS OF ENVIRONMENTAL IMPACT AND FEDERAL AGENCIES AND FEDERAL-STATE AGENCIES[1] WITH JURISDICTION BY LAW OR SPECIAL EXPERTISE TO COMMENT THEREON[2]

AIR

Air Quality

Department of Agriculture—
- Forest Service (effects on vegetation)

Atomic Energy Commission (radioactive substances)

Department of Health, Education, and Welfare

Environmental Protection Agency

Department of the Interior—
- Bureau of Mines (fossil and gaseous fuel combustion)
- Bureau of Sport Fisheries and Wildlife (effect on wildlife)
- Bureau of Outdoor Recreation (effects on recreation)
- Bureau of Land Management (public lands)
- Bureau of Indian Affairs (Indian lands)

National Aeronautics and Space Administration (remote sensing, aircraft emissions)

Department of Transportation—
- Assistant Secretary for Systems Development and Technology (auto emissions)
- Coast Guard (vessel emissions)
- Federal Aviation Administration (aircraft emissions)

Weather Modification

Department of Agriculture—
- Forest Service

Department of Commerce—
- National Oceanic and Atmospheric Administration

Department of Defense—
- Department of the Air Force

Department of the Interior
- Bureau of Reclamation

WATER RESOURCES COUNCIL

WATER

Water Quality

Department of Agriculture—
- Soil Conservation Service
- Forest Service

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[1] River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red-Rainy, Susquahanna, Upper Mississippi) and similar Federal-State agencies should be consulted on actions affecting the environment of their specific geographic jurisdictions.

[2] In all cases where a proposed action will have significant international environmental effects, the Department of State should be consulted, and should be sent a copy of any draft and final impact statement which covers such action.

Atomic Energy Commission (radioactive substances)
Department of the Interior—
Bureau of Reclamation
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sports Fisheries and Wildlife
Bureau of Outdoor Recreation
Geological Survey
Office of Saline Water
Environmental Protection Agency
Department of Health, Education, and Welfare
Department of Defense—
Army Corps of Engineers
Department of the Navy (ship pollution control)
National Aeronautics and Space Administration (remote sensing)
Department of Transportation—
Coast Guard (oil spills, ship sanitation)
Department of Commerce—
National Oceanic and Atmospheric Administration
Water Resources Council
River Basin Commissions (as geographically appropriate)

Marine Pollution, Commercial Fishery Conservation, and Shellfish Sanitation

Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Army Corps of Engineers
Office of the Oceanographer of the Navy
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Bureau of Land Management (outer continental shelf)
Geological Survey (outer continental shelf)
Department of Transportation—
Coast Guard
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)

Waterway Regulation and Stream Modification

Department of Agriculture—
Soil Conservation Service
Department of Defense—
Army Corps of Engineers
Department of the Interior—
Bureau of Reclamation
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
Geological Survey
Department of Transportation—
Coast Guard
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
Water Resources Council
River Basin Commissions (as geographically appropriate)

FISH AND WILDLIFE

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce—
National Oceanic and Atmospheric Administration (marine species)
Department of the Interior—
Bureau of Sport Fisheries and Wildlife
Bureau of Land Management
Bureau of Outdoor Recreation
Environmental Protection Agency

SOLID WASTE

Atomic Energy Commission (radioactive waste)
Department of Defense—
Army Corps of Engineers
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Mines (mineral waste, mine acid waste, municipal solid waste, recycling)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Geological Survey (geologic and hydrologic effects)
Office of Saline Water (demineralization)
Department of Transportation—
Coast Guard (ship sanitation)
Environmental Protection Agency
River Basin Commissions (as geographically appropriate)
Water Resources Council

NOISE

Department of Commerce—
National Bureau of Standards
Department of Health, Education, and Welfare
Department of Housing and Urban Development (land use and building materials aspects)
Department of Labor—
Occupational Safety and Health Administration
Department of Transportation—
Assistant Secretary for Systems Development and Technology
Federal Aviation Administration, Office of Noise Abatement
Environmental Protection Agency
National Aeronautics and Space Administration

RADIATION

Atomic Energy Commision
Department of Commerce—
National Bureau of Standards
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Mines (uranium mines)
Mining Enforcement and Safety Administration (uranium mines)
Environmental Protection Agency

HAZARDOUS SUBSTANCES

Toxic Materials

Atomic Energy Commission (radioactive substances)
Department of Agriculture—
Agricultural Research Service
Consumer and Marketing Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense
Department of Health, Education, and Welfare
Environmental Protection Agency

Food Additives and Contamination of Foodstuffs

Department of Agriculture—
Consumer and Marketing Service (meat and poultry products)
Department of Health, Education, and Welfare
Environmental Protection Agency

Pesticides

Department of Agriculture—
Agricultural Research Service (biological controls, food and fiber production)
Consumer and Marketing Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Sport Fisheries and Wildlife (fish and wildlife effects)
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Reclamation (irrigated lands)
Environmental Protection Agency

Transportation and Handling of Hazardous Materials

Atomic Energy Commission (radioactive substances)
Department of Commerce
Maritime Administration
National Oceanic and Atmospheric Administration (effects on marine life and the coastal zone)
Department of Defense—
Armed Services Explosive Safety Board
Army Corps of Engineers (navigable waterways)
Department of Transportation—
Federal Highway Administration, Bureau of Motor Carrier Safety
Coast Guard
Federal Railroad Administration
Federal Aviation Administration
Assistant Secretary for Systems Development and Technology
Office of Hazardous Materials
Office of Pipeline Safety
Environmental Protection Agency

ENERGY SUPPLY AND NATIONAL RESOURCES DEVELOPMENT

Electric Energy Development, Generation, and Transmission, and Use

Atomic Energy Commission (nuclear)
Department of Agriculture—
Rural Electrification Administration (rural areas)
Department of Defense—
Army Corps of Engineers (hydro)
Department of Health, Education, and Welfare (radiation effects)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Indian Affairs (Indian lands)
Bureau of Land Management (public lands)
Bureau of Reclamation
Power Marketing Administrations
Geological Survey
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Environmental Protection Agency
Federal Power Commission (hydro, transmission, and supply)
River Basin Commissions (as geographically appropriate)
Tennessee Valley Authority
Water Resources Council

Petroleum Development, Extraction, Refining, Transport, and Use

Department of the Interior—
Office of Oil and Gas
Bureau of Mines
Geological Survey
Bureau of Land Management (public lands and outer continental shelf)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (effects on fish and wildlife)
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (Transport and Pipeline Safety)

Environmental Protection Agency
Interstate Commerce Commission

Natural Gas Development, Production, Transmission, and Use

Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Oil and Gas
Geological Survey
Bureau of Mines
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation (transport and safety)
Environmental Protection Agency
Federal Power Commission (production, transmission, and supply)
Interstate Commerce Commission

Coal and Minerals Development, Mining, Conversion, Processing, Transport, and Use

Appalachian Regional Commission
Department of Agriculture—
Forest Service
Department of Commerce
Department of the Interior—
Office of Coal Research
Mining Enforcement and Safety Administration
Bureau of Mines
Geological Survey
Bureau of Indian Affairs (Indian lands)
Bureau of Land Management (public lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Labor—
Occupational Safety and Health Administration
Department of Transportation
Environmental Protection Agency
Interstate Commerce Commission
Tennessee Valley Authority

Renewable Resource Development, Production, Management, Harvest, Transport, and Use

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce
Department of Housing and Urban Development (building materials)
Department of the Interior—
Geological Survey
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife
Bureau of Outdoor Recreation
National Park Service
Department of Transportation
Environmental Protection Agency
Interstate Commerce Commission (freight rates)

Energy and Natural Resources Conservation

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Commerce—
National Bureau of Standards (energy efficiency)
Department of Housing and Urban Development—
Federal Housing Administration (housing standards)
Department of the Interior—
Office of Energy Conservation
Bureau of Mines
Bureau of Reclamation
Geological Survey
Power Marketing Administration
Department of Transportation
Environmental Protection Agency
Federal Power Commission
General Services Administration (design and operation of buildings)
Tennessee Valley Authority

LAND USE AND MANAGEMENT

Land Use Changes, Planning and Regulation of Land Development

Department of Agriculture—
Forest Service (forest lands)
Agricultural Research Service (agricultural lands)
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (wildlife refuges)
Bureau of Outdoor Recreation (recreation lands)
National Park Service (NPS units)
Department of Transportation
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)
River Basins Commissions (as geographically appropriate).

Public Land Management

Department of Agriculture—
Forest Service (forests)
Department of Defense
Department of the Interior—
Bureau of Land Management
Bureau of Indian Affairs (Indian lands)
Bureau of Sport Fisheries and Wildlife (wildlife refuges)
Bureau of Outdoor Recreation (recreation lands)
National Park Service (NPS units)
Federal Power Commission (project lands)
General Services Administration
National Aeronautics and Space Administration (remote sensing)
Tennessee Valley Authority (project lands)

PROTECTION OF ENVIRONMENTALLY CRITICAL AREAS—FLOODPLAINS, WETLANDS, BEACHES AND DUNES, UNSTABLE SOILS, STEEP SLOPES, AQUIFER RECHARGE AREAS, ETC.

Department of Agriculture—
Agricultural Stabilization and Conservation Service
Soil Conservation Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration (coastal areas)
Department of Defense—
Army Corps of Engineers
Department of Housing and Urban Development (urban and floodplain areas)
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Outdoor Recreation
Bureau of Reclamation
Bureau of Sport Fisheries and Wildlife
Bureau of Land Management
Geological Survey
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)
River Basins Commissions (as geographically appropriate)
Water Resources Council

LAND USE IN COASTAL AREAS

Department of Agriculture—
Forest Service
Soil Conservation Service (soil stability, hydrology)
Department of Commerce—
National Oceanic and Atmospheric Administration (impact on marine life and coastal zone management)
Department of Defense—
Army Corps of Engineers (beaches, dredge and fill permits, Refuse Act permits)
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Sport Fisheries and Wildlife
National Park Service
Geological Survey
Bureau of Outdoor Recreation
Bureau of Land Management (public lands)
Department of Transportation—
Coast Guard (bridges, navigation)
Environmental Protection Agency (pollution effects)
National Aeronautics and Space Administration (remote sensing)

REDEVELOPMENT AND CONSTRUCTION IN BUILT-UP AREAS

Department of Commerce—
Economic Development Administration (designated areas)
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Department of Transportation
Environmental Protection Agency
General Services Administration
Office of Economic Opportunity

DENSITY AND CONGESTION MITIGATION

Department of Health, Education, and Welfare
Department of Housing and Urban Development
Department of the Interior—
Office of Land Use and Water Planning
Bureau of Outdoor Recreation
Department of Transportation
Environmental Protection Agency

NEIGHBORHOOD CHARACTER AND CONTINUITY

Department of Health, Education, and Welfare
Department of Housing and Urban Development
National Endowment for the Arts
Office of Economic Opportunity

IMPACTS ON LOW-INCOME POPULATIONS

Department of Commerce—
Economic Development Administration (designated areas)
Department of Health, Education, and Welfare
Department of Housing and Urban Development
Office of Economic Opportunity

HISTORIC, ARCHITECTURAL, AND ARCHEOLOGICAL PRESERVATION

Advisory Council on Historic Preservation
Department of Housing and Urban Development
Department of the Interior—
National Park Service
Bureau of Land Management (public lands)
Bureau of Indian Affairs (Indian lands)

General Services Administration
National Endowment for the Arts

SOIL AND PLANT CONSERVATION AND HYDROLOGY

Department of Agriculture—
Soil Conservation Service
Agricultural Service
Forest Service
Department of Commerce—
National Oceanic and Atmospheric Administration
Department of Defense—
Army Corps of Engineers (dredging, aquatic plants)
Department of Health, Education, and Welfare
Department of the Interior—
Bureau of Land Management
Bureau of Sport Fisheries and Wildlife
Geological Survey
Bureau of Reclamation
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)
Water Resources Council

OUTDOOR RECREATION

Department of Agriculture—
Forest Service
Soil Conservation Service
Department of Defense—
Army Corps of Engineers
Department of Housing and Urban Development (urban areas)
Department of the Interior—
Bureau of Land Management
National Park Service
Bureau of Outdoor Recreation
Bureau of Sport Fisheries and Wildlife
Bureau of Indian Affairs
Environmental Protection Agency
National Aeronautics and Space Administration (remote sensing)
River Basin Commissions (as geographically appropriate)
Water Resources Council

FEDERAL ENERGY ADMINISTRATION

The areas of impact over which this agency has jurisdiction, by law or special expertise, to comment thereon are:

AIR

Air quality (Energy and Mobile Sources Emissions)

SOLID WASTE

Energy Supply and Natural Resource Development

Electric Energy Development, Generation, Transmission and Use
Petroleum Development, Extraction, Refining, Transport and Use
Natural Gas Development, Production, Transmission and Use
Coal and Minerals Development, Mining, Conversion, Processing, Transport and Use
Renewable Resource Development, Production, Management, Harvest, Transport and Use
Energy and Natural Resources Conservation

Land Use and Management

Land Use Changes, Planning and Regulation of Land Development
Public Land Management

Land Use in Coastal Areas

Redevelopment and Construction in Built Up Areas

The appropriate office within FEA to which five copies of the impact statement should be sent is:
Ernest E. Sligh, Director
Environmental Impact Division
Office of Environmental Programs
Federal Energy Administration
New Post Office Building
12th and Pennsylvania Ave., NW.
Washington, D.C. 20461
(202) 961-6214

Offices Within Federal Agencies and Federal-State Agencies for Information Regarding the Agencies' NEPA Activities and for Receiving Other Agencies' Impact Statements for Which Comments Are Requested

Advisory Council on Historic Preservation

Office of Architectural and Environmental Preservation, Advisory Council on Historic Preservation, Suite 430, 1522 K Street, N.W., Washington, D.C. 20005 254-3974
Regional Administrator, I,
U.S. Environmental Protection Agency
Room 2303, John F. Kennedy
Federal Bldg., Boston, Mass. 02203,
(617) 223-7210
Regional Administrator, II,
U.S. Environmental Protection Agency
Room 908, 26 Federal Plaza
New York, New York 10007
(212) 264-2525
Regional Administrator, III,
U.S. Environmental Protection Agency
Curtis Bldg., 6th & Walnut Sts.
Philadelphia, Pa. 19106
(215) 597-9801
Regional Administrator, IV,
U.S. Environmental Protection Agency
1421 Peachtree Street
N.E., Atlanta, Ga. 30309
(404) 526-5727
Regional Administrator V,
U.S. Environmental Protection Agency
1 N. Wacker Drive
Chicago, Illinois 60606
(312) 353-5250
Regional Administrator VI,
U.S. Environmental Protection Agency
1600 Patterson Street
Suite 1100
Dallas, Texas 75201
(214) 749-1962
Regional Administrator VII,
U.S. Environmental Protection Agency
1735 Baltimore Avenue
Kansas City, Missouri 64108
(816) 374-5493
Regional Administrator VIII,
U.S. Environmental Protection Agency
Suite 900, Lincoln Tower
1860 Lincoln Street
Denver, Colorado 80203
(303) 837-3895
Regional Administrator IX,
U.S. Environmental Protection Agency
100 California Street
San Francisco, California 94111
(415) 556-2320
Regional Administrator X,
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101
(206) 442-1220

Environmental Protection Agency [2]

Director, Office of Federal Activities, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 755-0777

[2] Contact the Office of Federal Activities for environmental statements concerning legislation, regulations, national program proposals or other major policy issues.

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont
New Jersey, New York, Puerto Rico, Virgin Islands
Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Arkansas, Louisiana, New Mexico, Texas, Oklahoma
Iowa, Kansas, Missouri, Nebraska
Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, Wake Island
Alaska, Idaho, Oregon, Washington

For all other EPA consultation, contact the Regional Administrator in whose area the proposed action (e.g., highway or water resource construction projects) will take place. The Regional Administrators will coordinate the EPA review. Addresses of the Regional Administrators, and the areas covered by their regions are as follows:

DEPARTMENT OF AGRICULTURE [1]

Office of the Secretary, Attn: Coordinator Environmental Quality Activities, U.S. Department of Agriculture, Washington, D.C. 20250 447-3965

APPALACHIAN REGIONAL COMMISSION

Office of the Alternate Federal Co-Chairman, Appalachian Regional Commission, 1666 Connecticut Avenue, N.W., Washington, D.C. 20235 967-4103

DEPARTMENT OF THE ARMY (CORPS OF ENGINEERS)

Executive Director of Civil Works, Office of the Chief of Engineers, U.S. Army Corps of Engineers, Washington, D.C. 20314 693-7168

ATOMIC ENERGY COMMISSION

For nonregulatory matters: Office of Assistant General Manager for Biomedical and Environmental Research and Safety Programs, Atomic Energy Commission, Washington, D.C. 20545 973-3208
For regulatory matters: Office of the Assistant Director for Environmental Projects, Atomic Energy Commission, Washington, D.C. 20545 973-7531

DEPARTMENT OF COMMERCE

Office of the Deputy Assistant Secretary for Environmental Affairs, U.S. Department of Commerce, Washington, D.C. 20230 967-4335

DEPARTMENT OF DEFENSE

Office of the Assistant Secretary for Defense (Health and Environment), U.S. Department of Defense, Room 3E172, The Pentagon, Washington, D.C. 20301 697-2111

DELAWARE RIVER BASIN COMMISSION

Office of the Secretary, Delaware River Basin Commission, Post Office Box 360, Trenton, N.J. 08603 (609) 883-9500

[1] Requests for comments or information from individual units of the Department of Agriculture, e.g., Soil Conservation Service, Forest Service, etc. should be sent to the Office of the Secretary, Department of Agriculture, at the address given above.

FEDERAL POWER COMMISSION

Commission's Advisor on Environmental Quality, Federal Power Commission, 825 N. Capitol Street, N.E., Washington, D.C. 20426 386-6084

GENERAL SERVICES ADMINISTRATION

Office of Environmental Affairs, Office of the Deputy Administrator for Special Projects, General Services Administration, Washington, D.C. 20405 343-4161

GREAT LAKES BASIN COMMISSION

Office of the Chairman, Great Lakes Basin Commission, 3475 Plymouth Road, P.O. Box 999, Ann Arbor, Michigan 48105 (313) 769-7431

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE [3]

For information with respect to HEW actions occurring within the jurisdiction of the Departments' Regional Directors, contact the appropriate Regional Environmental Officer:

Office of Environmental Affairs, Office of the Assistant Secretary for Administration and Management, Department of Health, Education and Welfare, Washington, D.C. 20202 963-4456

Region I:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
Room 2007B
John F. Kennedy Center
Boston, Massachusetts 02203 (617) 223-6827

Region II:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
Federal Building
26 Federal Plaza
New York, New York 10007 (212) 264-1308

Region III:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
P.O. Box 13716
Philadelphia, Pennsylvania 19101 (215) 597-6498

Region IV:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
Room 404
50 Seventh Street, N.E.
Atlanta, Georgia 30323 (404) 526-5817

Region V:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
Room 712, New Post Office Building
433 West Van Buren Street
Chicago, Illinois 60607 (312) 353-1644

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT [4]

Director, Office of Community and Environmental Standards, Department of Housing and Urban Development, Room 7206, Washington, D.C. 20410 755-5980

Region VI:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
1114 Commerce Street
Dallas, Texas 75202 (214) 749-2236

Region VII:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
601 East 12th Street
Kansas City, Missouri 64106 (316) 374-3584

Region VIII:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
9017 Federal Building
19th and Stout Streets
Denver, Colorado 80202 (303) 837-4178

Region IX:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
50 Fulton Street
San Francisco, California 94102 (415) 556-1970

Region X:
Regional Environmental Officer
U.S. Department of Health, Education and Welfare
Arcade Plaza Building
1321 Second Street
Seattle, Washington 98101 (206) 442-0490

Regional Administrator III,
Environmental Clearance Officer
U.S. Department of Housing and Urban Development
Curtis Building, Sixth and Walnut Street
Philadelphia, Pennsylvania 19106 (215) 597-2560

Regional Administrator IV,
Environmental Clearance Officer
U.S. Department of Housing and Urban Development
Peachtree-Seventh Building
Atlanta, Georgia 30323 (404) 526-5585

Regional Administrator V,
Environmental Clearance Officer
U.S. Department of Housing and Urban Development
360 North Michigan Avenue
Chicago, Illinois 60601 (312) 353-5680

DEPARTMENT OF THE INTERIOR [5]

Director, Office of Environmental Project, Review, Department of the Interior, Interior Building, Washington, D.C. 20240 343-3891

INTERSTATE COMMERCE COMMISSION

Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 343-6167

DEPARTMENT OF LABOR

Assistance Secretary for Occupational Safety and Health, Department of Labor, Washington, D.C. 20210 961-3405

MISSOURI RIVER BASINS COMMISSION

Office of the Chairman, Missouri River Basins Commission, 10050 Regency Circle, Omaha, Nebraska 68114 (402) 397-5714

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Office of the Comptroller, National Aeronautics and Space Administration, Washington, D.C. 20546 755-8440

NATIONAL CAPITAL PLANNING COMMISSION

Office of Environmental Affairs, Office of the Executive Director, National Capital Planning Commission, Washington, D.C. 20576 382-7200

NATIONAL ENDOWMENT FOR THE ARTS

Office of Architecture and Environmental Arts Program, National Endowment for the Arts, Washington, D.C. 20506 382-5765

NEW ENGLAND RIVER BASINS COMMISSION

Office of the Chairman, New England River Basins Commission, 55 Court Street, Boston, Mass. 02108 (617) 223-6244

Regional Administrator VI,
Environmental Clearance Officer
U.S. Department of Housing and Urban Development
Federal Office Building, 819 Taylor Street
Fort Worth, Texas 76102 (817) 334-2867

Regional Administrator VII,
Environmental Clearance Officer
U.S. Department of Housing and Urban Development
911 Walnut Street
Kansas City, Missouri 64106 (816) 374-2661

Regional Administrator VIII,
Environmental Clearance Officer
U.S. Department of Housing and Urban Development
Samsonite Building, 1051 South Broadway
Denver, Colorado 80209 (303) 837-4061

Regional Administrator IX,
Environmental Clearance Officer
U.S. Department of Housing and Urban Development
450 Golden Gate Avenue, Post Office Box 36003
San Francisco, California 94102 (415) 556-4752

Regional Administrator X,
Environmental Clearance Officer
U.S. Department of Housing and Urban Development
Room 226, Arcade Plaza Building
Seattle, Washington 98101 (206) 583-5415

OFFICE OF ECONOMIC OPPORTUNITY

Office of the Director, Office of Economic Opportunity, 1200 19th Street, NW., Washington, D.C. 20506 254-6000

OHIO RIVER BASIN COMMISSION

Office of the Chairman, Ohio River Basin Commission, 36 East 4th Street, Suite 208-20, Cincinnati, Ohio 45202 (513) 684-3831

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[3] Contact the Office of Environmental Affairs for information on HEW's environmental statements concerning legislation, regulations, national program proposals or other major policy issues, and for all requests for HEW comment on impact statements of other agencies.

[4] Contact the Director with regard to environmental impacts of legislation, policy statements, program regulations and procedures, and precedent-making project decisions. For all other HUD consultation, contact the HUD Regional Administrator in whose jurisdiction the project lies, as follows:

[5] Requests for comments or information from individual units of the Department of the Interior should be sent to the Office of Environmental Project Review at the address given above.

PACIFIC NORTHWEST RIVER BASINS COMMISSION

Office of the Chairman, Pacific Northwest River Basins Commission, 1 Columbia River, Vancouver, Washington 98660 (206) 695–3606

SOURIS-RED-RAINY RIVER BASINS COMMISSION

Office of the Chairman, Souris-Red-Rainy River Basins Commission, Suite 6, Professional Building, Holiday Mall, Moorhead, Minnesota 56560 (701) 237–5227

DEPARTMENT OF STATE

Office of the Special Assistant to the Secretary for Environmental Affairs, Department of State, Washington, D.C. 20520 632–7964

SUSQUEHANNA RIVER BASIN COMMISSION

Office of the Executive Director, Susquehanna River Basin Commission, 5012 Lenker Street, Mechanicsburg, Pa. 17055 (717) 737–0501

TENNESSEE VALLEY AUTHORITY

Office of the Director of Environmental Research and Development, Tennessee Valley Authority, 720 Edney Building, Chattanooga, Tennessee 37401 (615) 755–2002

DEPARTMENT OF TRANSPORTATION [8]

Director, Office of Environmental Quality, Office of the Assistant Secretary for Environment, Safety, and Consumer Affairs, Department of Transportation, Washington, D.C. 20590 426–4357

For information regarding the Department of Transportation's other environmental statements, contact the national office for the appropriate administration:

U.S. Coast Guard

Office of Marine Environment and Systems, U.S. Coast Guard, 400 7th Street, S.W., Washington, D.C. 20590, 426–2007

Federal Aviation Administration

Office of Environmental Policy, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591, 426–8406

Federal Highway Administration

Office of Environmental Policy, Federal Highway Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426–0351

Federal Railroad Administration

Office of Policy and Plans, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426–1567

Urban Mass Transportation Administration

Office of Program Operations, Urban Mass Transportation Administration, 400 7th Street, S.W., Washington, D.C. 20590, 426–4020

For other administrations not listed above, contact the Office of Environmental Quality, Department of Transportation, at the address given above.

For comments on other agencies' environmental statements, contact the appropriate administration's regional office. If more than one administration within the Department of Transportation is to be requested to comment, contact the Secretarial Representative in the appropriate Regional Office for coordination of the Department's comments:

SECRETARIAL REPRESENTATIVE

Region I Secretarial Representative, U.S. Department of Transportation, Transportation Systems Center, 55 Broadway, Cambridge, Massachusetts 02142 (617) 494–2709

Region II Secretarial Representative, U.S. Department of Transportation, 26 Federal Plaza, Room 1811, New York, New York 10007 (212) 264–2672

Region III Secretarial Representative, U.S. Department of Transportation, Mall Building, Suite 1214, 325 Chestnut Street, Philadelphia, Pennsylvania 19106 (215) 597–0407

Region IV Secretarial Representative, U.S. Department of Transportation, Suite 515, 1720 Peachtree Rd., N.W., Atlanta, Georgia 30309 (404) 526–3738

Region V Secretarial Representative, U.S. Department of Transportation, 17th Floor, 300 S. Wacker Drive, Chicago, Illinois 60606 (312) 353–4000

Region VI Secretarial Representative, U.S. Department of Transportation, 9–C–18 Federal Center, 1100 Commerce Street, Dallas, Texas 75202 (214) 749–1851

Region VII Secretarial Representative, U.S. Department of Transportation, 601 E. 12th Street, Room 634, Kansas City, Missouri 64106 (816) 374–2761

Region VIII Secretarial Representative, U.S. Department of Transportation, Prudential Plaza, Suite 1822, 1050 17th Street, Denver, Colorado 80225 (303) 837–3242

Region IX Secretarial Representative, U.S. Department of Transportation, 450 Golden Gate Avenue, Box 36133, San Francisco, California 94102 (415) 556–5961

Region X Secretarial Representative, U.S. Department of Transportation, 1321 Second Avenue, Room 507, Seattle, Washington 98101 (206) 442–0590

FEDERAL AVIATION ADMINISTRATION

New England Region, Office of the Regional Director, Federal Aviation Administration, 154 Middlesex Street, Burlington, Massachusetts 01803 (617) 272–2350

Eastern Region, Office of the Regional Director, Federal Aviation Administration, Federal Building, JFK International Airport, Jamaica, New York 11430 (212) 995–3333

Southern Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320 (404) 526–7222

Great Lakes Region, Office of the Regional Director, Federal Aviation Administration, 2300 East Devon, Des Plaines, Illinois 60018 (312) 694–4500

Southwest Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101 (817) 624–4911

Central Region, Office of the Regional Director, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Missouri 64106 (816) 374–5626

Rocky Mountain Region, Office of the Regional Director, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colorado 80207 (303) 837–3646

Western Region, Office of the Regional Director, Federal Aviation Administration, P.O. Box 92007, WorldWay Postal Center, Los Angeles, California 90009 (213) 536–6427

Northwest Region, Office of the Regional Director, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108 (206) 767–2780

FEDERAL HIGHWAY ADMINISTRATION

Region 1, Regional Administrator, Federal Highway Administration, 4 Normanskill Boulevard, Delmar, New York 12054 (518) 472–6476

Region 3, Regional Administrator, Federal Highway Administration, Room 1621, George H. Fallon Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201 (301) 962–2361

Region 4, Regional Administrator, Federal Highway Administration, Suite 200, 1720 Peachtree Road, N.W., Atlanta, Georgia 30309 (404) 526–5078

Region 5, Regional Administrator, Federal Highway Administration, Dixie Highway, Homewood, Illinois 60430 (312) 799–6300

Region 6, Regional Administrator, Federal Highway Administration, 819 Taylor Street, Fort Worth, Texas 76102 (817) 334–3232

Region 7, Regional Administrator, Federal Highway Administration, P.O. Box 7186, Country Club Station, Kansas City, Missouri 64113 (816) 361–7563

Region 8, Regional Administrator, Federal Highway Administration, Room 242, Building 40, Denver Federal Center, Denver, Colorado 80225

Region 9, Regional Administrator, Federal Highway Administration, 450 Golden Gate Avenue, Box 36096, San Francisco, California 94102 (415) 556–3895

Region 10, Regional Administrator, Federal Highway Administration, Room 412, Mohawk Building, 222 S.W. Morrison Street, Portland, Oregon 97204 (503) 221–2065

URBAN MASS TRANSPORTATION ADMINISTRATION

Region I, Office of the UMTA Representative, Urban Mass Transportation Administration, Transportation Systems Center, Technology Building, Room 277, 55 Broadway, Boston, Massachusetts 02142 (617) 494–2055

Region II, Office of the UMTA Representative, Urban Mass Transportation Administration, 26 Federal Plaza, Suite 1809, New York, New York 10007 (212) 264–8162

Region III, Office of the UMTA Representative, Urban Mass Transportation Administration, Mall Building, Suite 1214, 325 Chestnut Street, Philadelphia, Pennsylvania 19106 (215) 597–0407

Region IV, Office of UMTA Representative, Urban Mass Transportation Administration, 1720 Peachtree Road, Northwest, Suite 501, Atlanta, Georgia 30309 (404) 526–3948

Region V, Office of the UMTA Representative, Urban Mass Transportation Administration, 300 South Wacker Drive, Suite 700, Chicago, Illinois 60606 (312) 353–6005

Region VI, Office of the UMTA Representative, Urban Mass Transportation Administration, Federal Center, Suite 9E24, 1100 Commerce Street, Dallas, Texas 75202 (214) 749–7322

Region VII, Office of the UMTA Representative, Urban Mass Transportation Administration, c/o FAA Management Systems Division, Room 1564D, 601 East 12th Street, Kansas City, Missouri 64106 (816) 374–5567

Region VIII, Office of the UMTA Reprsentative, Urban Mass Transportation Administration, Prudential Plaza, Suite 1822, 1050 17th Street, Denver, Colorado 80202 (303) 837–3242

Region IX, Office of the UMTA Representative, Urban Mass Transportation Administration, 450 Golden Gate Avenue, Box 36125, San Francisco, California 94102 (415) 556–2884

Region X, Office of the UMTA Representative, Urban Mass Transportation Administration, 1321 Second Avenue, Suite 5079, Seattle, Washington (206) 442–0590

[8] Contact the Office of Environmental Quality, Department of Transportation, for information on DOT's environmental statements concerning legislation, regulations, national program proposals, or other major policy issues.

DEPARTMENT OF THE TREASURY

Office of Assistant Secretary for Administration, Department of the Treasury, Washington, D.C. 20220 964-5391

UPPER MISSISSIPPI RIVER BASIN COMMISSION

Office of the Chairman, Upper Mississippi River Basin Commission, Federal Office Building, Fort Snelling, Twin Cities, Minnesota 55111 (612) 725-4690

WATER RESOURCES COUNCIL

Office of the Associate Director, Water Resources Council, 2120 L Street, N.W., Suite 800, Washington, D.C. 20037 254-6442

[FR Doc.75-28430 Filed 10-21-75;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

HOWARD E. WINN

Receipt of Application for Endangered Species Permit—E8

Notice is hereby given that the following applicant has applied in due form for a permit to take and/or import endangered species for scientific purposes as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the National Marine Fisheries Service Regulations Governing Endangered Fish or Wildlife Permits (50 CFR 222) as published in the November 27, 1974 FEDERAL REGISTER at page 41375.

Dr. Howard E. Winn, Graduate School of Oceanography, University of Rhode Island, Kingston, Rhode Island 02881, to conduct research on endangered species of cetaceans in the Atlantic and Pacific Oceans.

These cetaceans are as follows:
Gray Whale, *Eschrichtius robustus*
Blue Whale, *Balaenoptera musculus*
Humpback Whale, *Megaptera novaeangliae*
Bowhead Whale, *Balaena mysticetus*
Right Whale, *Eubalaena australis*
Fin Whale, *Balaenoptera physalus*
Sei Whale, *Balaenoptera borealis*
Sperm Whale, *Physeter catodon*

The proposed research will consist of the following activities:

1. Record the sound, behavior, and numbers of any endangered species of cetaceans encountered during a series of cruises in the Atlantic and Pacific Oceans, including aerial observations;

2. Obtain 30 skin and blubber samples from humpback whales (*Megaptera novaeangliae*), over a period of four years, for analysis of chromatin material and pesticides;

3. Conduct underwater observations, and make underwater movies, of humpback whales (*Megaptera novaeangliae*);

4. Import 20 skin and blubber samples from humpback whales (*Megaptera novaeangliae*) taken in the humpback whale fishery in Bequia, British West Indies; and

5. Collect any dead stranded humpback whales (*Megaptera novaeangliae*) found within the jurisdiction of the United States, and import parts of dead humpback whales (*Megaptera novaeangliae*) from Bequia, British West Indies, for anatomical studies.

The observational data obtained during the proposed research will provide a better understanding of the population levels, migratory behavior, and social organization of the endangered species of cetaceans encountered during the cruises.

The skin samples from humpback whales ,will be used to establish the sex of the animals from which the samples are taken, by means of analysis of chromatin material. The skin samples from humpback whales taken in Bequia will serve as controls for comparison with the samples from living whales at sea. Establishing the sex of these whales at sea, in correlation with recordings of their sounds, provides an opportunity for assessment of the social organization of humpback whales, and allows refinement in an acoustic censuring technique previously developed.

The blubber samples will be used in determining the levels of organochlorine pesticides within the tissues of humpback whales.

The skin and blubber samples will be obtained by means of a small biopsy dart, mounted either on a hand-thrown pole or a modified harpoon gun. The harpoon gun technique was used successfully with large cetaceans during a research cruise in 1972. In either sampling technique, an antibiotic will be placed on the biopsy dart.

In connection with this proposed project, the Applicant has been issued a permit under the Marine Mammal Protection Act of 1972, to take and/or import these species as well as non-endangered cetaceans subject to that statute.

Documents submitted in connection with this application are available for review in the Division of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, and the Office of the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 21, 1975. The holding of such hearing is at the discretion of the Director.

Any statements and opinions that may be contained in this notice in support of this application are summaries based upon information supplied by the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

OCTOBER 16, 1975.

[FR Doc.75-28387 Filed 10-21-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 28028]

ANDREWS INTERNATIONAL, INC., ET AL., ENFORCEMENT PROCEEDING

Notice of Change of Hearing Room

Notice is hereby given that the hearing in the above-captioned case (40 FR 39922, August 29, 1975) scheduled to be held in Room 1031N, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., commencing at 10 a.m. (local time), Thursday, October 23, 1975, has been transferred to Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., at the same time.

Dated at Washington, D.C., October 16, 1975.

[SEAL] FRANK M. WHITING,
Administrative Law Judge.

[FR Doc.75-28446 Filed 10-21-75;8:45 am]

[Docket No. 27851]

HICKS AND LAWRENCE LTD., CANADIAN CHARTER PERMIT (SMALL AIRCRAFT)

Notice of Change of Hearing Room

Notice is hereby given that the hearing in the above-captioned case (40 FR 43541, September 22, 1975) scheduled to be held in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., commencing at 10:00 a.m. (local time), Tuesday, October 28, 1975, has been transferred to Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., at the same time.

Dated at Washington, D.C., October 16, 1975.

[SEAL] WILLIAM A. KANE, Jr.,
Administrative Law Judge.

[FR Doc.75-28447 Filed 10-21-75;8:45 am]

COMMISSION ON CIVIL RIGHTS

ADVISORY COMMITTEES

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a conference of the D.C., Delaware, Maryland, Virginia, West Virginia and Pennsylvania Committees to this Commission will convene at 5 p.m. on November 16, and end on November 18, 1975 at the Hotel Dupont Plaza, Dupont Circle, Washington, D.C. 20036.

Persons wishing to attend this conference should contact the Commission Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20037.

The purpose of this conference is a two-day discussion on ways to improve the effectiveness of state advisory committees to the U.S. Commission on Civil Rights in the 1970's.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28365 Filed 10-21-75;8:45 am]

ARIZONA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that an informal open hearing of the Arizona Advisory Committee will convene at 1 p.m. and end at 5 p.m. on November 20, 1975, and again on November 21, 1975, at 9 a.m. and end at 5 p.m. at the Federal Building 4th floor-conference room, 301 W. Congress, Tucson, Arizona 85701.

Persons wishing to attend this hearing should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, Champa Street, Denver, Colorado 80282.

The purpose of this hearing is a continuation of hearings on the administration of justice as it affects American Indians in off reservation areas in Arizona.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28345 Filed 10-21-75;8:45 am]

ARIZONA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arizona Advisory Committee will convene at 7 p.m. and end at 10 p.m. on November 19, 1975, Braniff Place, 130 West Broadway, Tucson, Arizona 85701.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, Champa Street, Denver, Colorado 80282.

The purpose of this meeting is a briefing of SAC for the continuation of hearings on the Administration of Justice as it affects American Indians in off reservation areas.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28346 Filed 10-21-75;8:45 am]

ARIZONA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Arizona Advisory Committee will convene at 1 p.m. to 5 p.m. on November 17, 1975 and at 9 a.m. to 5 p.m. on November 18, 1975, South Liberal Arts Building, Room 104, Ground Floor, Northern Arizona University, Flagstaff, Arizona 86001.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, Champa Street, Denver, Colorado 80282.

The purpose of this meeting is to discuss the administration of justice as it affects American Indians in off reservation areas in Arizona.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28347 Filed 10-21-75;8:45 am]

ARIZONA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arizona Advisory Committee (SAC) to this Commission will convene at 7 p.m. and end at 10 p.m. on November 16, 1975, South Liberal Arts Building, Room 104, ground floor-Northern Arizona University, Flagstaff, Arizona 86001.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80282.

The purpose of this meeting is a briefing of SAC for hearings on the Administration of Justice as it affects in border towns areas.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28348 Filed 10-21-75;8:45 am]

DELAWARE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) to this Commission will convene at 10 a.m. and end at 2 p.m. on November 10, 1975, Blue Cross/Blue Shield Building, Wilmington, Delaware 19801.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to plan for an informal hearing on December 5, 1975 regarding equal protection under State and Federal laws for staygrant workers in Delaware.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28351 Filed 10-21-75;8:45 am]

DELAWARE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) to this Commission will convene at 10 a.m. and end at 2 p.m. on November 17, 1975, Blue Cross/Blue Shield Building, Wilmington, Delaware 19801.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20037.

The purpose of this meeting is to plan for an informal hearing on December 5, 1975 regarding equal protection under State and Federal laws for staygrant workers in Delaware.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28350 Filed 10-21-75;8:45 am]

DELAWARE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) to this Commission will convene at 10 a.m. and end at 2 p.m. on November 24, 1975, Blue Cross/Blue Shield Building, Wilmington, Delaware 19801.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, NW., Washington, D.C. 20037.

The purpose of this meeting is to plan for informal hearing on December 5, 1975, regarding equal protection under

State and Federal laws for staygrant workers in Delaware.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28349 Filed 10-21-75;8:45 am]

FLORIDA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Florida Advisory Committee (SAC) to this Commission will convene at 1 p.m. and end at 5 p.m. on November 13, 1975, President's Board Room, Ashe Administrative Building, University of Miami, Coral Gables, Florida 33124.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this meeting is to discuss the Miami Police Department and Dade County Public Safety Department since Open Meeting in June; status of report on Open Meeting; Report on followup of Jacksonville study; report on EOS visit to Pensacola and Escambia County; Discussion of issues raised at national SAC Chairpersons conference.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 14, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28352 Filed 10-21-75;8:45 am]

GEORGIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Georgia Advisory Committee (SAC) to this Commission will convene at 1 p.m. and end at 5 p.m. on November 10, 1975, Hyatt Regency, 265 Peachtree NE., Atlanta, Georgia.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue NE., Atlanta, Georgia 30303.

The purpose of this meeting is to discuss Georgia Prison Report and programmatic plans for remainder of fiscal 1976.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 14, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28353 Filed 10-21-75;8:45 am]

INDIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) to this Commission will convene at 10 a.m. and end at 12 p.m. on November 21, 1975, Indiana University Northwest Campus, 3400 Broadway Building, Gary Main 206, Gary, Indiana.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, Room 1428, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to identify witness and interview assignment, review progress on data collection-Subcommittee planning.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28354 Filed 10-21-75;8:45 am]

INDIANA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana Advisory Committee (SAC) to this Commission will convene at 10 a.m. and end at 12 p.m. on November 7, 1975, at Indiana University, Northwest Campus, Gary, Indiana.

Persons wishing to attend this meeting should contact the Committee Chairperson or the Midwestern Regional Office of the Commission, Room 1428, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to review proposal plan data gathering, subdivide topics and review project proposal for Lake County Bilingual-Bicultural Educational Subcommittee Study.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28355 Filed 10-21-75;8:45 am]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. and end at 11 p.m. on November 12, 1975, 35 Community Drive, Maine Teachers Association, Augusta, Maine 04330.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss Franco-American project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28356 Filed 10-21-75;8:45 am]

MASSACHUSETTS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts Advisory Committee (SAC) to this Commission will convene at 12:30 p.m. and end at 3:30 p.m. on November 6, 1975, 27 School Street, Lower Level Conference Room; Boston, Massachusetts.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to report on planning for conference for religious leaders and discuss civil rights issues in Springfield.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28357 Filed 10-21-75;8:45 am]

NEW HAMPSHIRE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Hampshire Advisory Committee to this Commission will convene at 7:30 p.m. and end at 10:30 p.m. on November 10, 1975, at the Sheraton Wayfarer Motor Inn, Manchester, New Hampshire.

Persons wishing to attend this meeting should contact the Committee Chairperson or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss criminal justice plan for the State.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28358 Filed 10-21-75;8:45 am]

NEW YORK ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New York Advisory Committee (SAC) to this Commission will convene at 2:30 p.m. and end at 4 p.m. on November 12, 1975, Phelps Stokes Fund, 10 East 87th Street, New York, New York.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting is to discuss public employment project with Subcommittee, discuss alternative projects and follow-up.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28359 Filed 10-21-75;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) to this Commission will convene at 7 p.m. and end at 10 p.m. on November 11, 1975, Ramada Inn, I-75 Business Spur, Sault Ste. Marie, Michigan 49783. (room to be posted).

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, Room 1428, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to review hearing issues and procedures for the committee's informal fact finding meeting on housing and community development issues to be held the following two days in Sault Ste. Marie.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28360 Filed 10-21-75;8:45 am]

MICHIGAN ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Michigan Advisory Committee (SAC) to this Commission will convene at 9:30 a.m. to 5:30 p.m. on November 12, 1975, Conference Room, Malcolm Building, 408 W. Spruce Street, Sault Ste. Marie, Michigan 49783, and will convene on November 13, 1975, 9:30 a.m. to 5:30 p.m., Parish Mall, St. Isaac Jogues Church, 1529 Marquette Avenue, Sault Ste. Marie, Michigan 49783.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, Room 1428, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to collect information from residents, city officials, and responsible State and Federal agencies on the civil rights implications of the use of Federal Housing and Community Development Funds in the City of Sault Ste. Marie.

All scheduled witnesses will be issued written invitations to appear. Limited time will be available for previously unscheduled witnesses. Persons wishing to be added as unscheduled witnesses must make prior arrangements with Commission staff, and will be allowed to appear if they have information relevant to the subject under study and providing sufficient time is available during the meeting. All witnesses are encouraged to submit written statements detailing their testimony prior to the day of the meeting. All relevant statements and documents submitted before, during, and after the meeting will be made a part of the meeting record in Commission files and will be considered in the development of the Advisory Committee's report of findings and recommendations. A detailed list of witnesses will be available at the meeting site on November 12, 1975.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28361 Filed 10-21-75;8:45 am]

OHIO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio Advisory Committee (SAC) to this Commission will convene at 10 a.m. and end at 4 p.m. on November 15, 1975, Holiday Inn-Downtown, 802 W. 8th St., Cincinnati, Ohio 45203.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, Room 1428, 230 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting is to receive reports of the Education Subcommittee and the Revenue Sharing Subcommittee. Discuss the release of the Ohio Prison Report and follow-up conferences.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28363 Filed 10-21-75;8:45 am]

TENNESSEE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Tennessee Advisory Committee (SAC) to this Commission will convene at 2 p.m. and end at 5 p.m. on November 14, 1975, Holiday Inn-Rivermont, 200 W. Georgia-Riverside Drive, Board Room, Memphis, Tennessee.

Persons wishing to attend this meeting should contact the Committee Chairperson, or the Southern Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.

The purpose of this meeting is to reorganize programmatic plans for this fiscal year.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75-28364 Filed 10-21-75;8:45 am]

CIVIL SERVICE COMMISSION

EXPORT-IMPORT BANK OF THE UNITED STATES

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of

the Export-Import Bank of the United States to fill by noncareer executive assignment in the excepted service the position of Vice President and Assistant to the Chairman, Board of Directors.

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

[FR Doc.75-28443 Filed 10-21-75;8:45 am]

DEPARTMENT OF LABOR

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Secretary, Office of the Secretary.

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

[FR Doc.75-28445 Filed 10-21-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[(FRL 446-7); OPP-180055]

DEPARTMENT OF AGRICULTURE

Crisis Exemption To Control Oriental Fruit Fly in California

Pursuant to the provisions of section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136), the Environmental Protection Agency (EPA) hereby gives notice that the U.S. Department of Agriculture (USDA) has availed itself of a crisis exemption for use of the pesticides naled, diazinon, and malathon to control the Oriental fruit fly (*Dacus dorsalis* Hendel) in San Diego County, California. This exemption is in accordance with, and is subject to, the provisions of sections 166.2, 166.8, and 166.9 of 40 CFR Part 166. These regulations concerning exemption of Federal and State agencies for the use of pesticides under emergency conditions were published in the FEDERAL REGISTER on December 3, 1973 (38 FR 33303). As required, the USDA has submitted in writing the following certified information.

At present, there are no pesticides registered specifically to control the Oriental fruit fly, because it is not endemic to the continental United States. However, this particular pest has been eradicated on several occasions from California. The Oriental fruit fly attacks more than 150 fruits and vegetables; its presence poses a serious economic loss potential to the California fruit and vegetable industries.

Fruit fly surveys in California have detected an Oriental fruit fly infestation in southern California, specifically in the area of National City, San Diego County. On September 5, 1975, the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, USDA, began treatment and eradication efforts. A lure bait, consisting of 7 percent Thixcin-E, 88 percent methyl eugenol, and 5 percent naled, was applied at the rate of 3 to 5 milliliters per station (host tree trunks, telephone poles, etc.) in and around National City; there were approximately 600 stations per square mile (6 to 8 stations per city block). Approximately 90 square miles required treatment.

The USDA further stated that the pesticide treatment procedure may be amended to include a diazinon soil drench (50 percent wettable powder at the rate of 0.25 pound actual diazinon per 100 gallons of water) under all host plants where Oriental fruit fly larvae are detected in fruits. Spot applications of a malathion bait spray may also be needed when such larvae are discovered.

In accordance with § 166.8(c) of the controlling regulations, if treatment pursuant to the crisis exemption is expected to continue for more than a total of fifteen (15) days, an application for a specific exemption shall accompany the required certified information. The USDA has submitted such an application; however, this notice does not constitute a decision on the application. The official file concerning this exemption is available for inspection in the Registration Division (WH-567), Office of Pesticide Programs, EPA, Room E-315, 401 M Street, S.W., Washington, D.C. 20460.

Dated: October 15, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.75-28368 Filed 10-21-75;8:45 am]

[(FRL 446-6); OPP-50043]

MICHIGAN DEPARTMENT OF AGRICULTURE

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 the State of Michigan, Department of Agriculture, Lansing, Michigan 48913. 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. 37665-EUP-1) allows the use of 1.6 pounds of the fungicide oxytetracycline hydrochloride on peaches. A total of 300 trees in Berrien, Van Buren, and Kent Counties are involved; the program is authorized only in Michigan. The experimental use permit is effective from September 30, 1975, to September 30, 1976. A temporary tolerance for residues of the active ingredient in or on peaches has been established.

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 15, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

[FR Doc.76-28369 Filed 10-21-75;8:45 am]

[(FRL 446-8); OPP-33000/329]

NOTICE OF 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 22, 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 22, 1975.

Dated: October 15, 1975.

JOHN B. RITCH, Jr.,
Director,
Registration Division.

APPLICATIONS RECEIVED [OPP-33000/329]

EPA Reg. No. 3125-119. Chemagro, Div. of Baychem Corp., PO Box 4913, Kansas City MO 64120. DI-SYSTON LIQUID CONCENTRATE. Active Ingredients: *O,O*-Diethyl *S*-[2-(ethylthio)ethyl] phosphorodithioate 65%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM15

EPA File Symbol 5429-RR. Cello Chemical Co., 8200 Fischer Rd., Baltimore MD 21222. CELLO MINTOPHENE MINT DISINFECTANT, GERMICIDE, BACTERICIDE. Active Ingredients: Isopropanol 19.97%; Coconut potassium soap 4.52%; Potassium salt of ortho - benzyl - para - chlorophenol 4.27% Sodium salt of ethylene diamine tetracetic acid 1.005%; Essential oils 0.75%. Method of Support: Application proceeds under 2 (a) of interim policy. PM32

EPA Reg. No. 464-416. The Dow Chemical Co., Ag-Organics Dept., PO Box 1706, Midland MI 48640. KORLAN 2 INSECTICIDE. Active Ingredients: Ronnel [O,O-dimethyl O-(2,4,5-trichlorophenyl) phosphorothioate] 24.5%. Method of Support: Application proceeds under 2(a) of interim policy. PM15

EPA File Symbol 1677-TI. Economics Laboratory, Inc., Klenzade Div., Tykor Department, Osborn Bldg., St. Paul MN 55102. QUIK-KLOR SANITIZER. Active Ingredients: Sodium Dichloro-s-triazinetrione Dihydrate (Providing 25% available chlorine) 47.5%. Method of Support: Application proceeds under 2(c) of interim policy. Republished: Formulation change. PM34

EPA File Symbol 37605-R. Fried Industries, PO Box 91, Milltown NJ 08850. SANA PAN WASH. Active Ingredients: n-Alkyl (60% C14, 30% C16, 5% C12, 5% C18) dimethyl benzyl ammonium chlorides 5.0%; n-Alkyl (68% C12, 32% C14) dimethyl ethylbenzyl ammonium chlorides 5.0%; Phosphoric Acid 30.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA Reg. No. 6962-32. Madison Bionics, Div. of C.I.C., 11250 W. Addison St., Franklin Park IL 60131. QUATROL DISINFECTANT & SANITIZER. Active Ingredients: n-Alkyl (C14 50%, C12 40%, C16 10%) dimethyl benzyl ammonium chlorides 5.00%; Ethanol 1.25%. Method of Support: Application proceeds under 2(a) of interim policy. PM31

EPA File Symbol 8325-RE. Misco Products Corp., Box 623, RD 2, Reading PA 19605. MISCO FORTIFIED PINE-ODOR DISINFECTANT. Active Ingredients: Pine oil 12.0%; o-Benzyl-p-chlorophenol 3.5%; Isopropyl alcohol 10.0% Soap 10.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 5891-EG. Mt. Hood Chemical Corp., 4444 NW Yeon, Portland OR 97210. DUZ IT ALL GERMICIDAL CLEANER. Active Ingredients: O-Benzyl-p-chlorophenate 7.2%, O-Phenylphenate 4.3%; p-tert-Amylphenate 2.8%; 4 and 6-Chloro-2-phenylphenate 0.5%; Isopropanol 15.0%; Tetrasodium ethylene-diamine tetraacetate 4.6%. Method of Support: Application proceeds under 2(b) of interim policy. PM32

EPA File Symbol 36333-G. Pollution Control Products, Inc., 1040 Bayview Dr., Fort Lauderdale FL 33304. MARK II NATURALIZER WATER UNIT. Active Ingredients: Silver (as silver chloride) 0.936%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

CORRECTION ITEM

The following is a correction to the list of Applications Received previously published in the FEDERAL REGISTER.

EPA Reg. No. 3125-213. Chemagro Corp., PO Box 4913, Kansas City MO 64120. DASANIT 15% GRANULAR INSECTICIDE-NEMATICIDE. Method of Support: Application proceeds under 2(b) of interim policy rather than 2(a). PM15 (40 FR 32160)

[FR Doc.75-28370 Filed 10-21-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

CITIZEN BAND STATIONS

Requested To Reduce Use of Channels Adjacent to Channel 9

OCTOBER 16, 1975.

Highway travelers using the Citizens Radio Service are reminded of the Commission's recommendation in the First Report and Order in Docket 20120 to avoid the use of channels immediately adjacent to emergency Channel 9. In the interest of protecting emergency communications from interference, it is recommended Citizens Radio Service channels which are several channels removed from Channel 9 be used by the traveling public.

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

[FR Doc.75-28462 Filed 10-21-75;8:45 am]

[Report No. 775]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

OCTOBER 14, 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 cutoff 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 pleading 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,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20457-CD-ML-76, Kenneth F. Fischer d.b.a. Sierra Communications (KFL891), Modification of License to interchange existing repeater frequency at Loc. #1 with existing control frequency at Loc. #2. New repeater frequency will be 454.10 MHz at Loc. #1: Black Peak, 10.5 miles NE. of Silver City, New Mexico; and control frequency 459.10 MHz at Loc. #2: 408 N. Bullard Street, Silver City, New Mexico.

20519-CD-ML-76, Auto Phone Company (KLF482), Modication of License to change base frequency from 454.05 MHz to 454.150 MHz at Loc. #1: Approx. 15 miles NNE. of Chico, Mount Cohassett, California.

20575-CD-P-76, Airsignal International, Inc. (KSV991), C. P. to install standby transmitter to operate on 152.24 MHz located at 965 Eutis Street, St. Paul, Minnesota.

20577-CD-P-76, Intrastate Radio Telephone, Inc. of San Francisco (KMA833), C. P. for additional facilities to operate on 152.12 MHz at Loc. #2: San Bruno Peak, near South San Francisco, California.

20578-CD-P-76, Carolina Telephone & Telegraph Company (KFL939), C.P. to change base frequency from 152.54 MHz to 152.75 MHz located at 401 West Fifth Street, Greenville, North Carolina.

20579-CD-P-(2)-76, Carolina Telephone and Telegraph Company (KIJ363), C. P. for additional facilities to operate on 152.57 & 152.54 MHz located 1.8 miles SE. of Rocky Mount, North Carolina.

20580-CD-P-(8)-76, The Pacific Telephone and Telegraph Company (New), C. P. for a new 1-way station to operate on 152.84 MHz at eight (8) sites described as: Loc. #1: Murray Lake Hill, 8 miles NE. of San Diego Civic Center, San Diego, California; Loc. #2: 3848 7th Avenue, San Diego, California; Loc. #3: 530 "B" Street, San Diego, California; Loc. #4: 2751 Palm Avenue, Palm City, California; Loc. #5: .8 mile West of Suncrest, California; Loc. #6: Black Mountain, 5.4 miles WNW. of Poway, California; Loc. #7: 1100 Wall Street, La Jolla, California; and Loc. #8: 5252 Balboa Avenue, San Diego, California.

[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).

20581-CD-P-76, Rock County Telephone Company (KSV986), C. P. to chg. antenna system and for additional facilities operating on 152.51 MHz located 2.5 miles East of Bassett, Nebraska.

20582-CD-P-(2)-76, Patterson Anserphone Communications Enterprises, Inc. d.b.a. Anserphone (KRH657), C. P. to change antenna system and relocate facilities operating on 152.24 MHz, base & standby, at Loc. #1 to be located at 111 Corcoran Street, Durham, North Carolina.

20583-CD-P-76, Central Telephone Company of Illinois (KUS220), C.P. to change base frequency from 152.81 MHz to 152.78 MHz located at Keller Street, at Keller & Walnut Streets, Savanna, Illinois.

20584-CD-AL-76, Mobile Communications, Inc. Consent to Assignment of License from Mobile Communications, Inc., Assignor to Hilltex Communications Company, Assignee. Station: KSV943, Palestine, Texas.

20585-CD-P-76, Caprock Communications, Inc. d.b.a. Caprock Radio Dispatch (KUS 227), C.P. to change antenna system and relocate facilities operating on 152.24 MHz to be located at Tract 2, Block 5, Artesia Industries Addition, Artesia, New Mexico.

20586-CD-P-(4)-76, Caprock Communications, Inc. d.b.a. Caprock Radio Dispatch (KLB513), C.P. to replace transmitter operating on base frequency 152.09 MHz, & repeater frequency 459.05 MHz at Loc. #1: 0.7 mile NE. of Queen, New Mexico; replace transmitter operating on control frequency 454.050 MHz at Loc. #2: 412 North Main Street, Carlsbad, New Mexico; and additional control facilities to operate on 454.050 MHz at a new site described as Loc. #3: Tract 2, Block 5, Artesia Industries Addition, Artesia, New Mexico.

20587-CD-P-76, L & L Services, Inc. d.b.a. Metro Communications (KIY519), C.P. for additional facilities to operate on 152.12 MHz located at 301 N. Montgomery Avenue, Sheffield, Alabama.

20588-CD-P-76, Paging, Inc. (KUO570), C.P. to replace transmitter, change antenna system and relocate facilities operating on 152.24 MHz to be located at 17th Street on Beaver Creek Knob, Bristol, Tennessee.

20589-CD-P-76, Empire Paging Corporation (KQZ777), C.P. for additional facilities to operate on 454.050 MHz at a new site described as Loc. #3: 318 Eagle Rock Avenue, West Orange, New Jersey.

20590-CD-P-(4)-76, Empire Paging Corporation (KRS674), C.P. for additional facilities to operate on 454.150 MHz at four (4) new sites described as Loc. #3: 5 Horizon Road, Fort Lee, New Jersey; Loc. #4: Adjacent to RR. tracks on Mizzen Avenue, Beachwood, New Jersey; Loc. #5: Top of Hill overlooking Pompton Lakes, New Jersey; and Loc. #6: 318 Eagle Rock Avenue, West Orange, New Jersey.

20591-CD-TC-(2)-76, Imperial Communications Corporation, Consent to Transfer of Control from Bell & Howell Company, Transferor to General Communications Service, Inc., Transferee. Stations: KLF644 & KMA262, San Diego, California.

20592-CD-P-76, Anser-Phones, Inc. d.b.a. Autophone of San Antonio (KRS651), C.P. to change antenna system and relocate facilities operating on 152.24 MHz to be located at NE. corner of N. Main & E. Myrtle Streets, San Antonio, Texas.

20594-CD-P-76, Marvin Barenblat d.b.a. Autophone of San Antonio (KUC915), C. P. to change antenna system and relocate facilities operating on 35.22 MHz to be located at NE. corner of N. Main & E. Myrtle Streets, San Antonio, Texas.

20595-CD-P-76, Sierra Communications, Inc. (KOP244), C. P. for additional facilities operate on 152.03 MHz at a new site described as Loc. #2: 253 East Arroyo Street, Reno, Nevada.

20596-CD-P-76, Phone Depots of Connecticut, Inc. d.b.a. Liberty Communications (KCI310), C. P. to relocate facilities operating on 35.58 MHz at Loc. #1: Sentinel Hill Road, Derby, Connecticut.

20597-CD-P-76, Answerphone of Lake Worth, Inc. (New), C. P. for a new 1-way station to operate on 43.22 MHz to be located at 1200' South of German Town Road & 700' W. of Seaboard Air RR., Delray Beach, Florida.

CORRECTIONS:

20341-CD-P-(4)-76, The Ohio Bell Telephone Company (KQK614), Youngstown, Ohio. Correct frequency to read 152.84 MHz at new Loc. #4. All other particulars to remain as reported on PN #769 dated September 2, 1975.

20561-CD-P-(3)-76, Capitol Radiotelephone Co., Inc. (New), Correct PN #774 dated October 6, 1975 to read: C. P. for a new 2-way station to operate on 152.09 MHz, base, and 459.025 MHz, repeater at Loc. #1: 13.2 miles SSE. of Beckley, West Virginia; and 454.025 MHz, control at Loc. #2: Main & N. Kanawha Streets, Beckley, West Virginia.

RURAL RADIO

60181-CR-P/L-76, The Mountain States Telephone & Telegraph Company (New), C. P. for a new rural subscriber station to operate on 157.80 MHz to be located at Edward Nigro, 11¼ miles North of Gila Bend, Arizona.

POINT-TO-POINT MICROWAVE RADIO SERVICE:

528-CF-ML-76, The Mountain States Telephone and Telegraph Company (KCO75), 8.9 miles NE. of Cedarwood, Colorado. Lat. 38°02'02" N., Long. 104°29'20" W. Mod. of License to correct coordinates, azimuths, and distances to points of communication.

855-CF-MP-76, The Offshore Telephone Company (WAH425), Block 222, East Cameron Area, Gulf of Mexico. Lat. 28°38'52" N., Long. 92°47'27" W. Mod. of C.P. to change transmitter and emission designator.

1108-CF-P-76, Pacific Northwest Bell Telephone Company (KOE81), Seattle 3, 1708 E. Pike Street, Seattle, Washington. Lat. 47°36'53" N., Long. 122°18'31" W. C.P. to replace transmitters and increase power output for frequency 6071.2H MHz toward Auburn, Washington.

1109-CF-P-76, Same (KPZ54), 3 miles South of Auburn, Washington. Lat. 47°15'23" N. Long. 122°13'07" W. C.P. to replace antenna, replace transmitters and increase power output for frequency 6323.3H MHz toward Seattle 3, Washington.

1110-CF-P-76, The Mountain States Telephone and Telegraph Company (KPZ73), Mud Flat, 7.5 miles SW. of Meadowville, Utah. Lat. 41°47'43" N., Long. 111°30'45" W. CP. to add frequency 10795V MHz toward a new point of communication at Rex Peak 2, Utah on azimuth 111.74°.

1111-CF-P-76, Southwestern Bell Telephone Company (KYJ66), 1407 Jefferson Street, Houston, Texas. Lat. 29°44'55" N., Long. 95°21'56" W. C.P. to add frequencies 3790H 3710H MHz toward Apollo RS, Texas on azimuth 133.1°.

1112-CF-P-76, Same (WPG66), Apollo RS, 623 Eldorado Street, League City, Texas. Lat. 29°33'46" N., Long. 95°08'20" W. C.P. to add frequencies 4150H 4070H MHz toward Houston, Texas on azimuth 313.2°, and 3830H 3750H MHz toward Liverpool, Texas on azimuth 187.4°.

1113-CF-P-76, Same (WCZ52), 6.2 miles ESE. of Liverpool, Texas. Lat. 29°15'36" N., Long. 95°11'02" W. C.P. to add frequencies 4110H 4030H MHz toward Apollo RS, Texas on azimuth 7.4°, and 3710H MHz toward Galveston, Texas on azimuth 83.1°.

1114-CF-P-76, Same (KKZ85), 25th Street & Avenue I, Galveston, Texas. Lat. 29°18'03" N., Long. 94°47'38" W. C.P. to add frequency 4070H MHz toward Liverpool RS, Texas on azimuth 263.3°.

1116-CF-P-76, The Pacific Telephone and Telegraph Company (KMN33), Turtle Dome, 5.5 miles NE. of El Portal, California. Lat. 37°42'45" N., Long. 119°42'13" W. C.P. to change co-ordinates, replace antenna and transmitters, and change frequency 6415V to 2162H MHz toward Sentinel Dome, California on azimuth 81.4°.

1117-CF-P-76, Same (KMN92), Sentinel Dome, near Glacier Point, Yosemite National Park, California. Lat. 37°43'38" N., Long. 119°34'51" W. C.P. to change coordinates replace antenna and transmitters, and change frequency 6295V to 2112H MHz toward Turtle Dome, California on azimuth 261.5°.

1118-CF-P-76, Puerto Rico Telephone Company (WUT64), El Yunque, 5.55 miles SSE. of Rio Grande, Puerto Rico. Lat. 18°18'36" N., Long. 65°47'41" W. C.P. to change location of transmit station, replace antenna, add point of communication at Hato Tejas, Puerto Rico on frequencies 4110.0H 4030.0H and 3870.0H MHz on azimuth 285.1°; add 10715.0H MHz toward Fajardo, Puerto Rico; change receive station information for Rio Grande and Fajardo; delete frequencies 6189.8H 6249.1H 6412.2H 10715.0H MHz toward San Juan and 6308.4H 6367.7H MHz toward Humacao, Puerto Rico.

1132-CF-P-76, RCA Global Communications, Inc. (New), One Shell Plaza, Houston, Texas. Lat. 29°45'32" N., Long. 95°22'02" W. C.P. for a new station on frequencies 5989.7V 5960.0H MHz toward McAlhany Pond, Texas on azimuth 31.1°.

1133-CF-P-76, Same (New), McAlhany Pond, approx. 5 miles NW. of Hoffman, Texas. Lat. 30°06'01" N., Long. 95°07'48" W. C.P. for a new station on frequencies 6212.0V 6182.4H MHz toward Houston, Texas on azimuth, 211.2°, and 6375.2H 6404.9V MHz toward Davis Hill, Texas on azimuth 46.9°.

1134-CF-P-76, Same (New), Davis Hill, approx. 12 miles NE. of Plum Grove, Texas. Lat. 30°19'12" N., Long. 94°51'31" W. C.P. for a new station on frequencies 5974.8V 6063.6H MHz toward McAlhany Pond, Texas on azimuth 227.1°, and 11545.0V 11385.0V MHz toward Rayburn, Texas on azimuth 327.6°.

1135-CF-P-76, Same (New), 2 miles SE. of Rayburn, Texas. Lat. 30°23'11" N., Long. 94°54'26" W. C.P. for a new station on frequencies 11055.0V 10895.0V MHz toward Davis Hill, Texas on azimuth 147.6°.

1137-CF-MP-76, United States Transmission Systems, Inc. (WAH508), 3.2 miles East of Winston Salem, North Carolina. Lat. 36°07'56" N., Long. 80°07'42" W. Mod. C.P. to replace transmitter, change coordinates to those shown above, and to change frequencies 6226.9V to 6197.2V towards Reidsville, North Carolina on 49.7° and 6245.5H to 6197.2H towards Lexington, North Carolina on 213.1°.

1138-CF-MP-76, Same (WAH509), 4.6 miles SW. of Welcome, North Carolina. Lat. 35°52'50" N., Long. 80°19'46". Mod. C.P. to replace transmitter, change coordinates to those shown above, replace antenna and to add frequency 5974.8V towards Cool Springs, North Carolina on 255.1°.

1139-CF-MP-76, Same (WAH510), 4.0 miles South of Cool Springs, North Carolina. Lat. 35°47'35" N., Long. 80°43'52" W. Mod. C.P. to replace transmitter, change coordinates to those shown above, replace antenna and to change frequency 6345.5H to 6226.9V towards Davidson, North Carolina on 201.1° and to change polarization on 6197.2H to 6197.2V towards Lexington, North Carolina on 74.9°.

1140-CF-MP-76, United States Transmission Systems, Inc. (WAH511), 2.0 miles North of Davidson, North Carolina. Lat. 35°81'31" N., Long. 88°51'27" W. Mod. C.P. to replace transmitter, replace antenna, change coordinates to those shown above and to change frequencies 6004.5V to 5945.2V towards Cool Springs, North Carolina on 21.0° and 6093.5H to 5945.2V towards Charlotte, North Carolina on 176.1°.

1141-CF-MP-76, Same (New), On East 8th Street, Charlotte, North Carolina. Lat. 35°13'43" N., Long. 80°50'15" W. C.P. for a new station on 6226.9V towards Davidson, North Carolina on 356.1°.

1124-CF-P-76, Eastern Microwave, Inc. (KTG28), Prewsburg, New York. Lat. 42°02'48" N., Long. 79°05'26" W. C.P. to add 6212.0H MHz and 6271.4H MHz toward Stockton, New York and reduce power output to 0.25 watt toward Jamestown, New York.

1127-CF-P-76, South Central Bell Telephone Company. (KJA85), Mobile, Alabama. Lat. 30°41'31" N., Long. 88°02'50" W. C.P. to add 4030V MHz toward Mt. Vernon, Alabama, on azimuth 002.0°.

[FR Doc.75-28463 Filed 10-21-75;8:45 am]

[FCC 75R-382]

MARANATHA, INC. ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of Maranatha, Inc., Princess Anne, Maryland, Docket No. 20388, File No. BPH-8802; Liesure Time Communications, Inc., Pocomoke City, Maryland, Docket No. 20389, File No. BPH-8900; Peter and John Radio Fellowship, Inc., Pocomoke City, Maryland, Docket No. 20390, File No. BPH-8907; For Construction Permits.

1. By Order, 40 FR 14803, published April 2, 1975, the Chief of the Broadcast Bureau, acting pursuant to delegated authority, designated the above-captioned mutually exclusive applications for consolidated hearing. Now before the Review Board is a motion to enlarge issues, filed April 17, 1975, by Maranatha, Inc. (Maranatha), requesting the addition of *Suburban* and financial issues against Leisure Time Communications, Inc. (LTC).[1]

SUBURBAN ISSUE

2. Maranatha first alleges that LTC's failure to be specific regarding the conduct of its original community leader survey renders the entire leader survey a "nullity." In support, movant notes that LTC's application merely states that 95 leader interviews were conducted by principals of LTC and ". . . three present employees who occupy management-level positions." Movant asserts, however, that since LTC has not provided the names or titles of the three alleged management-level employees who conducted part of that survey and has not delineated which of the 95 community leader interviews were conducted by principals, it cannot be determined whether the survey complies with the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants (Primer)*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). As a related matter, Maranatha argues that LTC's initial community leader survey does not reflect whether the 95 leaders contacted were interviewed within the required six-month period immediately prior to the filing of its application.[2] Next, Maranatha maintains that a subsequent LTC *Suburban* survey, submitted in a November 11, 1974 amendment, is defective for the same reasons described above. Furthermore, continues movant, the November survey is also deficient because only twelve persons from the proposed community of license were interviewed, two of whom are not leaders, and because significant groups within the community have not been contacted.[3] Finally, movant alleges that LTC has not provided a meaningful correlation between all of its ascertained community problems and its proposed programming.[4]

3. The Review Board will add the requested issue. Initially, with respect to all of LTC's community leader interviews, we agree with Maranatha that LTC has not identified, by either name or position, the individuals it has described as management-level personnel. Absent this information, it is impossible to determine whether LTC has complied with Q. & A. 11(a) of the *Primer*, which requires that interviews of community leaders be conducted by an applicant's principals or management-level employees. See *RKO General, Inc. (WOR-TV)*, 51 FCC 2d 367, 32 RR 2d 1102 (1975); *KOWL, Inc.*, 49 FCC 2d 962, 31 RR 2d 1589 (1974). In this connection, we agree with the Broadcast Bureau that another deficiency exists since LTC has not indicated that the specific employees of its existing facility in Pocomoke City who conducted its survey of the general public are prospective employees of the proposed station. See *Primer*, Q. & A. 11 (b). Second, the demographic information supplied by LTC appears to be inadequate. Other than several general descriptive paragraphs, which provide only the most rudimentary information, the application is almost devoid of specific data as to population, racial breakdown, and government organization. In addition, the applicant's demographic showing does not appear to be sufficiently specific with respect to organizations, activities, or other characteristics which would distinguish Pocomoke City from any other community. Accordingly, it is impossible to determine whether the applicant is aware of the significant groups that make up its community and whether the leaders it contacted are representative of those groups. See *Primer*, Q. & A. 4, 9, and 10; *Philadelphia Broadcasting Co.*, 51 FCC 2d 361, 32 RR 2d 1300 (1975); *Cavallaro Broadcasting Corp.*, 48 FCC 2d 469, 31 RR 2d 158 (1974). Furthermore, even assuming that LTC's demographic study were a sufficiently precise reflection of its community, it appears that the applicant has failed to survey leaders of significant population groupings set forth in its demographic study. Thus, while LTC's application states that over 25 percent of the population of Pocomoke City is black and its proposed service area "is heavily agricultural" and contains 824 farms, an examination of LTC's application indicates that only one identifiable black leader and three farmers have been interviewed. Finally, although LTC lists seven local employers "in and around Pocomoke City", population 3,573, who employ over 1500 people, LTC has not interviewed any industrial or labor leaders. See *Voice of Dixie Inc.*, 45 FCC 2d 1027, 29 RR 2d 1127 (1974), *recon. den.* 47 FCC 2d 526, 30 RR 2d 851 (1974). For these reasons, a *Suburban* issue will be added.[5]

FINANCIAL ISSUE

4. In support of its requested financial issue, Maranatha first argues that repayment of principal and interest on two proposed bank loans during LTC's second year of operation, which will total between $80,075.00 and $94,100.00, threatens the stability of LTC's financial proposal.[6] According to petitioner, the

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[1] The Board also has before it for consideration the following related pleadings: (a) opposition, filed May 16, 1975, by LTC; and (b) comments, filed May 16, 1975, by the Broadcast Bureau. Although the time for filing reply pleadings had been extended to September 14, 1975, no reply pleading has been filed.

[2] In support, movant notes that while the LTC application was filed on March 22, 1974, the application states only that interviews were conducted "during September and October of 1973." Maranatha also submits that to the extent LTC's initial general public survey interviews were conducted prior to September 22, 1973, they would likewise be invalid.

[3] Specifically, Maranatha contends that LTC has not contacted area employers, leaders of educational, labor, professional, racial, and ethnic groups, the aged, eleemosynary organizations, or cultural, recreational and service groups.

[4] LTC's opposition does not address the requested *Suburban* issue.

[5] However, the Board notes that, contrary to Maranatha's claim, Q. & A. 25 of the *Primer* makes clear than an applicant is not required to propose broadcast matter desinged to meet each of the needs it has ascertained. In addition, examination of LTC's application reveals that while LTC has not shown that its initial survey was conducted within the designated six-month period prior to the filing of its application, the applicant has satisfactorily resolved all such questions raised regarding its November survey.

[6] LTC's proposed construction and first-year operating costs for its proposed FM station total $143,244.00. To meet these costs, LTC relies on a $100,000.00 line of credit from the Calvin B. Taylor Banking Company of Berlin, Maryland, and a $60,000.00 line of credit from the Exchange and Savings Bank of Berlin, Maryland. The $100,000.00 line of credit is at 11% interest with a moratorium on principal repayment for the first year; $11,000.00 interest will be paid during the first year and the entire principal is required to be repaid within three years of the date of the loan. Assuming that $50,000.00 in principal, plus 11% interest on whatever portion of the balance is outstanding is to be paid during the second year, movant calculates that the total second year payment of this loan will be

problems in repaying such deferred sums are compounded by the fact that "during the period ending January 31, 1974," LTC's Station WDMV, Pocomoke City, "operated with a loss of $15,625.00, giving LTC a net loss of $24,285.00 for the same period." [7] Moreover, continues Maranatha, LTC's multiple concurrent financial obligations with respect to three other recently acquired broadcast interests, Station WIVI–FM, St. Croix, Virgin Islands, Station KGLR, Reno, Nevada, and Station WWFL, Clermont, Florida, as well as the heavy personal financial commitments of LTC's principals to another broadcast venture, a proposed FM facility in Sun Valley, Idaho, further render LTC's financial qualifications suspect. In this regard, movant notes that while exact figures are not available, based on certain "reasonable" assumptions, it has concluded that LTC's loan repayment commitments made in connection with these other broadcast properties are substantial and most likely will become due contemporaneously with those for the proposed Pocomoke City station.[8] As a related matter, movant observes that two of the three newly acquired stations have recently operated at losses and will not be able to help support the proposed Pocomoke City station. In light of the above, Maranatha concludes, citing *5 KW, Inc.*, 33 FCC 2d 895, 23 RR 2d 1015 (1972), *Swanee Broadcasting Co.*, 3 FCC 2d 560, 7 RR 2d 405 (1966), and *Ultravision Broadcasting Co.*, 1 FCC 2d 544, 5 RR 2d 343 (1965), that a financial issue must be designated which encompasses inquiry into LTC's financial qualifications to operate its proposed Pocomoke City FM station for a second and third year, as well as LTC's overall financial situation as revealed in all of its applications.

5. In opposition, LTC argues that movant's request for an inquiry into LTC's overall financial situation is unwarranted since the cases relied on by movant are inapplicable to the circumstances herein. In particular, LTC asserts that, contrary to the situation in those cases, nowhere in Maranatha's analysis has it been shown that the two sources of credit relied upon by LTC in the instant application are in any way committed to meet the financial needs of any other broadcast interest. In fact, continues LTC, the instant application specifically earmarks the lines of credit from the two Berlin, Maryland, banks "for use only in connection with the construction and operation of the proposed FM station." [9] Rather, according to LTC, the precedent upon which the Review Board should rely is *Jay Sadow*, 39 FCC 2d 808, 26 RR 2d 1032 (1973), wherein the Board held, under similar circumstances, that a prior loan to an applicant made in connection with the purchase of another station need not be considered part of the applicant's first year costs for construction of a proposed new facility. With regard to movant's request to extend the inquiry into LTC's financial qualifications to operate for a second and third year, LTC argues that Maranatha has not rebutted the presumption that, having demonstrated its first year financial capability, the applicant is likely to provide service on a continuing basis, citing *Ultravision Broadcasting Co., supra*. In fact, observes LTC, except in conjunction with its inappropriate attempt to examine LTC's overall financial qualifications, movant has not even alleged that LTC lacks the requisite financial capacity to construct and operate its proposed station for the first year. Next, LTC points out that it is only the repayment of its loans that has been deferred, and urges that the Commission found a similar proposal acceptable in *Thunder Bay Broadcasting Corp.*, 47 FCC 2d 1227, 30 RR 2d 1576 (1974). Furthermore, continues LTC, in *Thunder Bay, supra*, the Commission refused to assume that lending banks would insist on terms of repayment which would jeopardize the safety of their investments, and accepted bank loans which failed to specify repayment terms but provided for negotiations of such terms at the end of the first year. According to LTC, it follows that LTC's creditor banks will exercise the same discretion in this case. Finally, LTC avers that since approximately one-half of its first year costs will be non-recurring start up costs, it is not unreasonable to assume that in its second and third years the proposed station will be able to meet expenses and begin, through station revenues, to amortize its debt at a rate acceptable to the creditor banks.

6. While the Review Board has no reason to question LTC's ability to meet its costs of construction and first year's operation, the Board believes that addition of a limited issue to inquire into LTC's proposed second year financing is warranted. In this regard, we find it significant that, not only has LTC failed to contest the allegation that between $80,075.00 and $94,100.00 in principal and interest payments will be due on its proposed bank loans during its second year of operation, but by the terms of the credit agreement with its equipment supplier, LTC will be responsible for deferred payments to its supplier in excess of $20,000.00 in the second year. In addition, LTC must also meet those costs incident to the operation of its station.[10] Furthermore, regardless of the fact that LTC will not be burdened by nonrecurring start up costs, there is absolutely no indication that LTC's second year obligations could be met by revenues from the first or second year or by the remaining available $16,756.00 from its line of credit. Moreover, LTC's financial proposal is thinly structured; LTC is relying solely on loans and deferred credit arrangements to finance its operation. In our view, these circumstances raise a serious question as to whether LTC will be able to sustain itself during the second year of operation. See *Robert Cowan Wagner*, 38 FCC 2d 1187, 26 RR 2d 429 (1973); *5 KW, Inc. supra; Greenfield Broadcasting Corp.*, 32 FCC 2d 135, —— RR 2d —— (1971).[11] However, the Board does not believe, absent a showing that LTC's other broadcast operations will be utilized to financially support its proposed Pocomoke City operation, that a collateral inquiry into the financial structure of the other operations is appropriate.[12] In any event, we note that many of Maranatha's calculations with regard to the financial status of these stations are based on unsupported assumptions.

7. *Accordingly, It is ordered*, That the motion to enlarge issues, filed April 17, 1975, by Maranatha, Inc. is granted to the extent indicated herein, and is denied in all other respects; and

about $58,250.00. The $60,000.00 line of credit also has a mortorium on principal repayment for the first year, although interest at a rate of 1% over the prime rate must be paid. LTC assumes this will be 13%, or a first-year interest payment of $7,800.00. While the term in which the loan must be repaid has not been provided, Maranatha further assumes that beween $15,000.00 in principal and approximately $6,825.00 in interest or $21,825.00 (assuming five-year installment repayments) and $30,000.00 in principal and $5,850.00 in interest or $35,850.00 (assuming three-year installment repayments) must be repaid during the second year.

[7] Movant refers to an LTC amendment filed June 25, 1974.

[8] Specifically, movant calculates that Station WIVI–FM, St. Croix, Virgin Islands, has a second-year debt service of between $37,250.00 and $60,500.00, depending on whether repayment is required within three or five years; that Station KGLR, Reno, Nevada, has a second-year debt service of about $56,664.00; that Station WWFL, Clermont, Florida, has a second-year debt service of between $51,863.00 and $79,140.00, depending on whether repayment is required within three or five years; and that similar amounts would be due from all three stations in the third year. Combining the above amounts with either LTC's total estimated first-year financial obligations for its proposed Pocomoke City FM or the second-year debt service at the FM, movant calculates that between $289,021.00–339,548.00 and $225,852.00–290,404.00, would be needed to meet all of LTC's financial commitments. With regard to the proposed Sun Valley FM, movant asserts that the showings made in the Sun Valley application for the three LTC principals who are committed to provide a total of $105,000.00 indicate that they cannot meet their obligations to the Sun Valley station, much less "come to the rescue of LTC" in Pocomoke City.

[9] In addition, LTC asserts that it has assigned separate assets to each of its interests.

[10] Assuming that LTC's previously estimated operating costs remain constant during its second year of operation, these costs will total $17,782.00. Thus, including its deferred loan and equipment payments, LTC's total estimated expenditures during its second year of operation would be approximately between $117,805.00 and $131,920.00.

[11] *Thunder Bay Broadcasting Corp.* is distinguishable in that petitioner's showing in that case depended upon the unreasonable assumption that the lending bank would require repayment entirely in the second year of operation.

[12] In this regard, we also agree with LTC that *Swanee Broadcasting Co., supra*, is inapposite.

8. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issues:

(a) To determine the efforts made by Leisure Time Communications, Inc. to ascertain the community needs and interests of the area to be served and the means by which the applicant proposes to meet those needs and interests.

(b) To determine whether Leisure Time Communications, Inc. will have available sufficient funds to sustain its proposed station during the second year of operation and, in light of the evidence adduced pursuant thereto, whether the applicant is financially qualified.

9. *It is further ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof under issues (a) and (b) added herein shall be on Leisure Time Communications, Inc.

Adopted: October 10, 1975.

Released: October 20, 1975.

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

[FR Doc.75-28460 Filed 10-21-75;8:45 am]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 125—MLS Implementation. It is to be held on November 12-13, 1975, in Conference Room 3201, FAA Transpoint Building, 2100 Second Street SW., Washington, D.C., commencing at 9:30 A.M.

The Agenda is as follows:

1. Welcome by Chairman.
2. Summary and Approval of Minutes of July 9-10, 1975, meeting.
3. Introduction of new members and guests.
4. Report on Informal Coordination Group Meeting.
5. Reports of Informal Groups:
a. Benefits.
b. Military Planning and Costs.
c. Civil Costs.
d. Airborne System Operational Capabilities.
e. Implementation Strategies.
f. Pert Chart.
6. Status Report on SC-125 Activities.
7. FAA Implementation Status Report.
8. FAA Phase III Program.
9. Update Discussion of Strawman.
10. Special Assignments.
11. Other Business.
12. Date and Place of Next Meeting.

Meetings of Special Committee 125 are open to the public, subject to limitations of space available, and any members of the public may present oral statements at the meeting, subject to time available, or may submit written statements to the RTCA Secretariat. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone Area Code (202) 296-0484.

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

[FR Doc.75-28457 Filed 10-21-75;8:45 am]

MEETING

As a matter of public notice, the Annual Meeting of the Assembly of the Radio Technical Commission for Aeronautics (RTCA) will be held at the Marriott (Twin Bridges) Motel, Washington, D.C., November 18-19, 1975. Sessions will begin at 9 a.m. each day.

The purpose of this meeting will be to hear viewpoints on technical problems confronting the aviation community during the next four decades, nationally and internationally, and ways to solve them.

PROGRAM

FIRST SESSION—THE ENVIRONMENT

Environmental constraints, and their impact upon aircraft design and operations, and on the air traffic control system (Noise, pollution, wing-tip vortex, wind shear, CAT, weather modification). Meterological service requirements, now and forecast, and their application to global airspace management.

SECOND SESSION—THE AIR VEHICLE AND ITS SYSTEMS

During the next forty years, what new developments can be expected in air vehicles and airborne systems? How will these impact upon ATC system requirements? Will environmental and noise restrictions be overcome? How will energy considerations affect the development of aviation and future aircraft designs?

THIRD SESSION—THE TERMINAL AREA AND ITS ENVIRONS

What does it encompass? Where does it fit? Its limitations? Forecast Demand? Consequences when not in agreement. Past, Present and Future (10-20-30-40 years?). A short history covering development, present status, and outlook for the future on selected topics, especially as related to RTCA contributions where applicable; including international aspects (ICAO, EUROCAE, ITU WARC, etc.)

FOURTH SESSION—GLOBAL AIRSPACE MANAGEMENT

Political impact on airspace utilization. Technical viewpoints on current and future airspace management; NAV and COMM Systems; ATC System Characteristics (with emphasis on high and low density enroute traffic management); hazard detection and warning.

This meeting is open to the public. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone Area Code (202) 296-0484.

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

[FR Doc.75-28458 Filed 10-21-75;8:45 am]

MEETING

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Radio Technical Commission for Aeronautics Special Committee 127—Emergency Locator Transmitters. It is to be held on November 20, 1975, in Conference Room 6200, Nassif Building, U.S. Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C., commencing at 9:30 A.M.

The Agenda for the meeting is as follows:

1. Opening comments by the Chairman.
2. Administrative announcements.
3. Review and approval of the Minutes of the meeting held September 24-25, 1975.
4. Consideration of NASA Satellite Surveillance Proposal.
5. Reports on Acceleration ("G") Switch Testing.
6. Review of Draft of Minimum Performance Standards.
7. New Business.
8. Date and place of next meeting.

Meetings of Special Committee 127 are open to the public, subject to the limitations of space available, and any member of the public may present oral statements at the meeting, subject to time available, or may submit written statements to the RTCA Secretariat. Persons planning to attend or who desire additional information concerning this meeting are requested to contact the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, D.C. 20006, or telephone Area Code (202) 296-0484.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.75-28459 Filed 10-21-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

EMERGENCY AMENDMENT ADOPTING SPECIAL RULE FOR REFINERS BUY/SELL PROGRAM

Cancellation of Public Hearing

The Federal Energy Administration hereby gives notice that the public hearing schedule for October 23, 1975 in the above captioned proceeding has been cancelled. No requests to make oral presentations were received by FEA as of 4:30 p.m., e.s.t., October 16, 1975. Written comments and other data with respect to the emergency amendment may still be submitted to Executive Communications, Room 3309, Federal Energy Administration, Box EJ, Washington, D.C., 20461. All such materials received by 4:30 p.m., October 23, 1975 will be considered by FEA.

DAVID G. WILSON,
Acting General Counsel.

OCTOBER 17, 1975.

[FR Doc.75-28418 Filed 10-17-75;2:22 am]

FEDERAL MARITIME COMMISSION

[Docket No. 75-30; Agreement Nos. 9718-3 And 9731-5]

MARINE COOKS AND STEWARDS UNION

Modification of Order of Investigation

On August 18, 1975, the Commission served an Order of Investigation in this docket. By that Order the Commission continued its approval of Agreements 9718 and 9731 pending the completion of the investigation instituted by that Order. That Order directed that the investigation was to proceed with all expedition and was to be finally disposed of on or before February 21, 1976. That Order, except as hereinafter modified is ratified and confirmed.

Subsequent to that Order a prehearing conference was conducted by the Administrative Law Judge, whereas the Commission's discovery rules were waived insofar as those rules set time limits within which discovery can be conducted, and a shortened discovery schedule was prescribed. In that prehearing conference and in later rulings on discovery the Administrative Law Judge interpreted our Order of Investigation in such a manner as to exclude the discovery of or introduction of evidence bearing upon the interrelationship between Agreements 9718 and 9731 and other agreements in the trade to which Respondent Carriers are party. The Administrative Law Judge founded that interpretation upon language in the Order of Investigation describing the purposes of the investigation; our requirement that the hearings in this investigation commence on or before October 21, 1975; and our requirement that the Administrative Law Judge issue his Initial Decision on or before December 21, 1975. That restrictive interpretation of our Order of Investigation was vigorously urged by the Respondent Carriers, and, to a lesser extent by Hearing Counsel.

Within the time permitted by the Administrative Law Judge for discovery, and thereafter, the petitioner, Marine Cooks and Stewards Union (Union), has filed numerous papers in this proceeding, ranging from notices of intention to take the deposition of persons residing in countries other than the United States, through motions for leave to appeal rulings of the Administrative Law Judge, to a petition to prohibit participation of the Chairman of the Commission in the decision of this case and to vacate the order of investigation, the petition to vacate being now pending before the Commission. Throughout, the Respondent Carriers have steadfastly resisted the discovery of information relating to the interrelationship between Agreements 9718 and 9731 and agreements in the trade.

The effect of those maneuvers and rulings may be twofold: One, petitioner's maneuvers may have the effect of delaying the conclusion of this proceeding beyond February 21, 1976, and, two, the rulings may provide the Commission with a record lacking information necessary to the proper resolution of the question whether or not these Agreements should continue to enjoy the approval of this Commission. Neither result is fully acceptable.

The Union has now petitioned the Commission to modify the Order of Investigation by deleting therefrom the proviso, ". . . that the hearing shall commence no later than October 21, 1975, and an Initial Decision shall be issued no later than December 21, 1975."

We have considered the arguments of Petitioner, Respondents, and Hearing Counsel, and have determined to modify our Order of Investigation herein.

Petitioner sought leave from the Administrative Law Judge to appeal to the Commission his rulings on discovery herein. Leave was denied by the Administrative Law Judge. We do not now review those rulings, and we do not now decide whether or not those rulings were correct. However, these rulings, viewed together with the transcript of the prehearing conference and Petitioner's petition to modify the order of investigation, indicate that our Order of Investigation, insofar as it delineates the scope of this investigation, has been too narrowly interpreted. The Administrative Law Judge was correct when he concluded that this investigation did not extend to the approvability of any agreement other than Agreements 9718 and 9731. However, proper consideration of Agreements 9718 and 9731 may not be accomplished if those two Agreements are viewed in a vacuum. If there is evidence which shows that Agreements 9718 and 9731 are but part of a larger scheme of agreements in the U.S. West Coast/Japan trades, whether or not approved by this Commission, or which shows the interrelationship between Agreements 9718 and 9731 and other agreements in those trades, or which shows the effect of any such interrelationship, that evidence is relevant to the issues presented in this investigation. This is so because the anticompetitive effect, if any, of Agreements 9718 and 9731 might well be substantially different if those two Agreements were the only agreements in the U.S. West Coast/Japan trades to which the Respondent Carriers were party than if the Respondent Carriers are party to other agreements in those trades which interlock with the Agreements under investigation. Further, if Agreements 9718 and 9731 do contravene the antitrust policies of the United States, then the need for these agreements in order to secure a serious transportation need or to confer an important benefit upon the public might well be greater or less depending upon whether or not there are other agreements in those U.S. West Coast/Japan trades to which the Respondent Carriers are party.

As a result of what has transpired in this proceeding to date, it is necessary to modify our order of investigation in certain respects. By this modification it is our intent to insure that this proceeding shall go ahead expeditiously; that the record for decision will include all information necessary to a reasoned decision in this matter; and, that any tendency of the parties to delay these proceedings be circumscribed.

Therefore, it is ordered, That the Order of the Federal Maritime Commission dated August 18, 1975, entitled Docket No. 75-30 Agreement Nos. 9718-3 and 9731-5, Order of Investigation is modified by:

1. Deleting, in the first ordering paragraph thereof, the phrase ". . . through February 21, 1976, . . ." and substituting therefor the phrase ". . . through August 20, 1976, . . .".

2. Deleting, in the fifth ordering paragraph thereof, the dates ". . . October 21, 1975, . . ." and ". . . December 21, 1975, . . ." and substituting therefor ". . . January 21, 1976, . . ." and ". . . June 21, 1976, . . .".

It is further ordered, That the Petition of the Marine Cooks and Stewards Union for Leave to File Supplement to Petition for Modification of the Order of Investigation, filed October 8, 1975, is denied.

It is further ordered, That there shall be admitted in this proceeding all relevant evidence which shows the interrelationship between Agreement Nos. 9718 and 9731 on one hand and any other agreements in the U.S. West Coast/Japan trades to which Respondents are a party, on the other and which shows the competitive effect, if any of such an interrelationship.

By the Commission.[1]

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.75-28472 Filed 10-21-75;8:45 am]

LYKES BROTHERS STEAMSHIP COMPANY, INC. AND O.N.E. SHIPPING LTD.

Agreement Filed Regarding Cooperative Working Agreement

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 11, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the

[1] Absent Chairman Helen Delich Bentley who has recused herself from participation in this proceeding.

commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Lloyd Strickland, Vice President, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, Louisiana 70130.

Agreement No. 10183, between Lykes Bros. Steamship Co., Inc. (Lykes) and O.N.E. Shipping Ltd. (O.N.E.), establishes a cooperative working arrangement in the trade from U.S. Gulf ports to Colombia, whereby (1) Lykes agrees to issue its Bills of Lading to cover cargo selected by O.N.E. on vessels owned or controlled by O.N.E. and in consideration therefor, O.N.E. agrees to compensate Lykes according to a fixed schedule of payment as set forth in the agreement; (2) O.N.E. agrees to hold Lykes harmless and otherwise indemnify Lykes from and against any and all cargo claims, suits, etc.; (3) Lykes makes no representation that will result in O.N.E. being considered "a line associated to a Colombian enterprise"; and (4) this arrangement will terminate on December 31, 1977.

Dated: October 17, 1975.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-28470 Filed 10-21-75;8:45 am]

[Docket No. 75-16; Agreement Nos. 10107 and 10108]

ORIENT OVERSEAS LINES, ET AL.

Stay of Proceedings and Grant of Intervention

The Commission instituted this proceeding by Order Served May 9, 1975, directing Orient Overseas Lines (OOL), Orient Overseas Container Line (OOCL) and Zim Container Line (Zim) to show cause why Agreement No. 10107 and 10108 should not be found to: (1) have been terminated by the withdrawal therefrom of the Trans-Pacific Freight Conferences (Hong Kong) and the New York Freight Bureau (Hong Kong), respectively; and (2) be contrary to the public interest by their failure to provide a system for adequately policing the obligations under them and because withdrawal of the conferences from these agreements leaves no apparent justification for their continued approval.

Agreement No. 10107, initially approved by the Commission on February 19, 1974, established a ratemaking arrangement entered into by the member lines of the Trans-Pacific Freight Conference (Hong Kong) as a single party only, and OOL, OOCL, Pacific Far East Line (PFEL), and Zim, four independents in the trade from Hong Kong and Taiwan to West Coast ports of the United States. Similarly, Agreement No. 10108 also initially approved by the Commission on February 19, 1974, established a ratemaking arrangement entered into by member lines of the New York Freight Bureau (Hong Kong) as a single party only and American Export Lines Inc. (AEL) OOL, OOCL and Zim, four independents in the trade from Hong Kong and Taiwan to ports on the Gulf of Mexico and East Coast of the United States.

In their responses to the Show Cause Order, the independents through briefs submitted by Zim and OOL and OOCL requested *inter alia* an evidentiary hearing and opposed disapproval of the Agreements. While both Conferences, NYFB and TPFC filed Petitions for leave to Intervene and indicated their intention to oppose continued approval of the subject Agreements, they subsequently withdrew their opposition to continued approval of the Agreement on July 14, 1975. At approximately this time the various members of the respective Conferences began submitting their resignations from the Conferences and filing applications to join Agreement Nos. 10107 and 10108 as independents.

Although it appeared at one point that the Conferences would cease to exist due to lack of membership, several carriers have now withdrawn their resignations and remained in the Conference. Other carriers have effected their resignations and joined the rate agreements as independents. The Conferences, in addition to withdrawing their opposition to the continued approval of the Agreements, have applied and been accepted back into the membership of the instant rate agreements.

On July 18, 1975, Hearing Counsel filed its response to the Order to Show Cause wherein they asked that the proceedings be stayed until the positions of the parties are settled and accordingly requested that they be granted additional time to respond on the merits. It would appear from the facts that Hearing Counsel is correct in its representation that there is uncertainty in the trade in regards to the status of the carriers serving the trade. Therefore, these proceedings will be stayed at least until such time as the status of the lines serving the relevant trades stabilize.

There is one other matter outstanding before the Commission in this proceeding. On August 4, 1975, Pacific Far East Line (PFEL) filed a Petition for Leave to Intervene and a Request for Oral Argument, which was opposed by OOL and OOL. On August 18, 1975, PFEL, referencing *inter alia* the pending readmission to Agreement No. 10107 of TPFC and several of their former members, filed a Supplemental Petition for Leave to Intervene. As an active carrier in the trade and former member of Agreement No. 10107, PFEL has an interest in the outcome of these proceedings. Accordingly, their petition to intervene is granted.

Therefore, it is ordered, That these proceedings be stayed indefinitely.

It is further ordered, That PFEL is granted leave to intervene in these proceedings.

Finally, *it is further ordered*, That a copy of this Order be published in the FEDERAL REGISTER and that a copy thereof be mailed to all parties.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-28471 Filed 10-21-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-164]

ARIZONA PUBLIC SERVICE CO.

Supplement to Agreement

OCTOBER 16, 1975.

Take notice that on October 6, 1975, Arizona Public Service Company filed a Letter Supplement dated April 14, 1975 to Agreement dated July 15, 1962 between Arizona Public Service Company (Company) and Navopache Electric Cooperative (NEC), FPC Rate Schedule No. 17, for a new delivery point near the Company's Show Low Substation with an effective date of November 1, 1975.

The Company states that there is no change in rate. The Company further states that NEC will pay for the construction of the added delivery point which is estimated to cost $59,101.

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 petition or protests should be filed on or before October 23, 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.75-28630 Filed 10-21-75;10:34 am]

[Docket No. E-6943]

DEPARTMENT OF THE INTERIOR

Application for Extension of Confirmation and Approval of Rate

OCTOBER 16, 1975.

Take notice that on September 30, 1975, U.S. Department of the Interior requested on behalf of the Southwestern Power Administration (SWPA) that the Federal Power Commission extend for a period not to exceed 30 days, the confirmation and approval of the present rate for Narrows Dam Power and energy to Tex-La Electric Cooperative, Inc., under Articles I, section 3, of the SWPA Tex-La contract dated May 11, 1960.

On August 4, 1975, in Docket E-6943, the Federal Power Commission Extended Confirmation and Approval of Rates for the sale of the entire power production of the Narorws Dam to Tex-La for a period ending not later than September 30, 1975. SWPA scheduled a public hearing within the requested extension period to determine the necessity of increasing the rates and charges in order to demonstrate repayment of the power investment at a 50 year rate. Interested parties were afforded the opportunity to participate in the rate setting process. The hearing originally scheduled for July 9, was postponed. It was subsequently held on July 24 and 25 in SWPA offices in Tulsa, Oklahoma.

The Department of the Interior stated that because of the delay in holding the hearing and the voluminous testimony, it was impossible to submit the Secretary's proposal for a new rate by September 30, 1975.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 22, 1975 file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commissions Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. This application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-28629 Filed 10-21-75;10:34 am]

FEDERAL RESERVE SYSTEM

ALABAMA BANCORPORATION

Order Approving Acquisition of Bank

Alabama Bancorporation, Birmingham, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Gadsden Mall Bank, Gadsden, Alabama ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and 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 largest banking organization in Alabama, controls 12 banks with aggregate deposits of $1.38 billion, representing 16.5 percent of the total deposits in commercial banks in the State.[1] Acquisition of Bank ($4 million in deposits) would not significantly increase deposit concentration nor Applicant's share of total commercial bank deposits in Alabama.

Bank is the second smallest of eleven banks in the relevant banking market,[2] and holds approximately two percent of total deposits in commercial banks in the market. The two largest banks in the market together control approximately 39 percent of total market deposits. Since Applicant is not presently represented in this market, and its closest banking subsidiary is located 32 miles southeast of Bank in a separate banking market, no meaningful competition between Bank and Applicant's present subsidiaries would be eliminated as a result of the proposed acquisition. In addition, no significant competition exists between Bank and Applicant's indirectly owned mortgage banking subsidiary, Engel Mortgage Company. Thus, consummation of the proposed acquisition would not adversely affect existing competition in the relevant market. Furthermore, in view of Bank's relative size and its market position, the Board views the proposed acquisition as a foothold entry by Applicant into the relevant banking market. Accordingly, on the basis of the facts of record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its banking subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval of the application. Consummation of the proposal is likely to result in an expansion of the range of services presently offered by Bank, since affiliation with Applicant will provide Bank with a ready source for loan participations, access to trust services, and assistance in specialized loan services and investment portfolio analysis. These considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective October 15, 1975.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.75-28405 Filed 10-21-75;8:45 am]

[1] All banking data are as of December 31, 1974, and reflect bank holding company formations and acquisitions approved by the Board through September 30, 1975.

[2] The relevant banking market is approximated by Etowah County.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Bucher and Holland. Present and abstaining: Governor Jackson. Absent and not voting: Governors Wallich and Coldwell.

CITIZENS BANCSHARES OF MADELIA, INC.

Formation of Bank Holding Company

Citizens Bancshares of Madelia, Inc., Madelia, Minnesota, 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 80.24 per cent or more of the voting shares of Citizens National Bank of Madelia, Madelia, Minnesota. 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received not later than November 11, 1975.

Board of Governors of the Federal Reserve System, October 15, 1975.

[SEAL] GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.75-28406 Filed 10-21-75;8:45 am]

FEDERAL TRADE COMMISSION

SOHMER & CO., INC.

Invitation to Comment on Application

Section 102(c) of the Magnuson-Moss Warranty Act, 15 U.S.C. 2302(c), prohibits a warrantor from conditioning performance under a written warranty on the purchase by the consumer of any article or service identified by brand, trade or corporate name. (The prohibition does not apply to articles or services provided to the consumer at no cost under the warranty.) The section further provides that the Commission may waive its applicability upon application by a warrantor. The Commission is required under this provision to notify the public of any application for waiver and to invite public comment on it.

The application of Sohmer & Company, Inc. (Sohmer), a manufacturer and warrantor of upright and grand pianos, seeks a waiver of section 102(c). The written warranty of Sohmer contains the following clause: "It is understood that this

guarantee is valid only upon condition that Sohmer & Co., Inc., or their accredited representatives are employed for all tuning and servicing of said piano." The application notes that "accredited representatives" are Sohmer dealers, or where no dealer is available, members of the Piano Technicians' Guild designated by Sohmer dealers.

The statute provides that the Commission may waive the prohibition of § 102 (c) if

(1) the warrantor satisfies the Commission that the warranted product will function properly only if the article or service so identified is used in connection with the warranted product, and

(2) the Commission finds that such a waiver is in the public interest.

The Commission invites interested persons to direct their comment to the question of whether Sohmer has met the statutory standard.

Sohmer's application and the documents submitted in support of the application are available for public inspection and copying at the Office of Legal & Public Records, Room 130, Federal Trade Commission Washington, D.C. Comments filed by interested persons will be considered by the Commission in making a decision on the application.

All interested persons are given notice of the opportunity to present written views and arguments with respect to the application. The public record will remain open for comment until December 22, 1975. All comments should be identified as "Comment on Sohmer Application", and should be delivered no later than that date to: Secretary, Federal Trade Commission Room 172, 6th & Pennsylvania Avenue NW., Washington, D.C. 20580.

Issued: October 22, 1975.

By the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-28412 Filed 10-21-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO. ET AL.

Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and the Corn Belt Power Cooperative which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to delete the trip level settings for the bus power monitor relays for the following: residual heat removal (RHR) system-low pressure coolant injection mode; core spray system; automatic depressurization system; high pressure coolant injection system; and the reactor core isolation cooling trip system.

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 4, 1975, and supplements dated September 9 and 15, 1975, (2) Amendment No. 14 to License No. DPR-49, with Change No. 15, 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 Cedar Rapids Public Library, 426 Third Avenue, S.E., Cedar Rapids, Iowa.

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 8th day of October, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Division of Reactor Licensing.

[FR Doc.75-28371 Filed 10-21-75;8:45 am]

REGULATORY GUIDE

Notice of Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.102, "Flood Protection for Nuclear Power Plants," describes types of flood protection acceptable to the NRC staff for the safety-related structures, systems, and components of light-water-cooled nuclear power plants. This guide also describes acceptable methods of protecting nuclear power plants from the effects of Probable Maximum Precipitation (PMP) falling directly on the site.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed (listed below) or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.102 will, however, be particularly useful in evaluating the need for an early revision if received by December 19, 1975.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone requests cannot be accommodated. Regulatory Guides are not copyrighted and Commission approval is not required to reproduce them.

Other Division 1 Regulatory Guides currently being developed include the following:

- Prevention of Fracture of Structural Discontinuities in Reactor Pressure Vessel
- Protection Against Postulated Events and Accidents Outside of Containment
- Fracture Toughness Requirements for Materials for Class 2 and 3 Components
- Maintenance of Water Purity in PWR Secondary Systems
- Criteria for Heatup and Cooldown Procedures
- Effects of Residual Elements on Predicted Radiation Damage
- Surveillance Testing and Inservice Inspection of Thermal Barrier and Steam Generator Materials in High-Temperature Gas-Cooled Reactors
- Surveillance and Postirradiation Examination of Fuel Rods in Lead Assemblies
- Design Load Combinations for Component Supports
- Interim Guide on Tornado Missiles
- Criteria for Plugging Steam Generator Tubes
- Structural Design Criteria for Fuel Assemblies in Light-Water-Cooled Reactors
- Overhead Crane Handling Systems for Nuclear Power Plants
- Recommended Procedure for Resintering Test to Monitor Densification Stability of Production Fuel
- Qualifications for Cement Grouting for Prestressing Tendons in Containment Structure
- Posttensioned Prestressing Systems for Concrete Reactor Vessels and Containment
- Inservice Monitoring of Core and Core Support Structure Motion Via Neutron-Flux Measurement
- Loose Parts Monitoring Program for the Primary System
- Tornado Design Classification
- Overpressure Protection of Low-Pressure Systems Connected to Reactor Coolant Pressure Boundary
- Protective Coatings for Light-Water Reactor Containment Facilities
- Quality Assurance Requirements for Installation, Inspection, and Testing of Mechanical Equipment and Systems
- Assumptions Used for Evaluating the Potential Radiological Consequences of a BWR Radioactive Offgas System Failure

Fire Protection Criteria for Nuclear Power Plants
Requirements for Auditing of Quality Assurance Programs for Nuclear Power Plants
Quality Assurance Requirements for Control of Procurement of Equipment, Materials, and Services for Nuclear Power Plants
Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident
Quality Assurance Requirements for Lifting Equipment
Maintenance and Testing of Batteries
Qualification Test of Class IE Cables, Connections, and Field Splices for Nuclear Power Plants
Seismic Qualification of Class I Electric Equipment
Fuel Oil Systems for Standby Diesel Generators
Quality Assurance Requirements for the Manufacture of Class IE Instrumentation and Electric Equipment for Nuclear Power Plants
Quality Assurance Requirements for the Manufacture of Class IE Instrumentation and Electric Equipment for Nuclear Power Plants
Assumptions Used for Evaluating the Potential Radiological Consequences of a Liquid Radioactive Waste System Accident
Containment Isolation Provisions
Instrument Spans and Setpoints
Initial Startup Testing Program for Facility Shutdown from Outside the Control Room
Periodic Testing of Diesel Generators
Qualification of Inspection, Examination, and Testing Personnel for Nuclear Facilities
Quality Assurance Program Requirements for Nuclear Power Plant Fuels
Testing of Nuclear Air Cleaning Systems
Preoperational and Initial Startup Testing of Feedwater Systems for BWRs
Design Criteria for Overload Protection of Motor-Operated Valves
Identification of Materials, Parts, and Components for Nuclear Power Plants
Probable Maximum Storm Surge Flooding on Lakes and Sea Shores
Protection of Nuclear Power Plants Against Industrial Sabotage
Emergency Planning for Nuclear Power Plants
Control Room Manning
Hydrologic Design Criteria for Water Control Structures Constructed for Nuclear Power Plants
Spill Analysis—Dispersion and Dilution in Surface and Ground Water
Design Objectives for LWR Spent Fuel Facilities
Design Objectives for LWR Fuel Handling Systems

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 15th day of October 1975.

For the Nuclear Regulatory Commission,

ROBERT B. MINOGUE,
Director,
Office of Standards Development.

[FR Doc.75-28416 Filed 10-21-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on November 6–8, 1975 in Room 1046, 1717 H Street NW, Washington, D.C.

The agenda for the subject meeting will be as follows:

THURSDAY, NOVEMBER 6, 1975

8:30–9:30 a.m.: Executive Session (Closed)—The Committee will meet in closed Executive Session to discuss opinions and exchange recommendations of individual members related to the nomination of candidates for appointment to the Committee and the selection of ACRS officers.

The Committee will also meet in closed Executive Session to discuss the evaluation of the Subcommittee and the comments and recommendations of individual members and consultants who may be present regarding matters which should be considered during the following open meeting in order to formulate a Committee report and recommendations to the Nuclear Regulatory Commission regarding the Pilgrim Station Unit 2.

9:30 a.m.–1 p.m. Pilgrim Station Unit 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the applicant and the NRC Staff regarding the request for a construction permit for the Pilgrim Station Unit 2. Closed portions of this session will be held if required to discuss proprietary information related to the design, construction and/or operation of this unit. Closed portions will also be held if required to discuss security arrangements for this plant and for Committee deliberative sessions. During these deliberative sessions, ACRS consultants will present their final recommendations and Committee members will exchange and discuss their final opinions and recommendations on this project.

2–2:30 p.m.: Meeting with NRC Staff (Open)—The Committee will meet with the NRC Staff to hear presentations on and to discuss current reactor operating experience and recent licensing actions. The anticipated agenda items for future ACRS meetings will also be discussed.

2:30–3 p.m.: Executive Session (Closed)—The Committee will meet in closed session to discuss the evaluation of the Subcommittee and the comments and recommendations of individual members and consultants who may be present regarding matters which should be considered during the following open meeting in order to formulate a Committee report and recommendations to the Nuclear Regulatory Commission regarding the Palo Verde Power Project Units 1, 2, and 3.

3–6 p.m.: Palo Verde Power Project Units 1, 2, and 3 (Open)—The Committee will hear presentations by and hold discussions with representatives of the applicant and the NRC Staff regarding the request for a construction permit for this Station. Closed portions will be held if required to discuss proprietary information related to the design, construction and/or operation of this project. Closed portions will also be held if required to discuss security arrangements for this project and for Committee deliberative sessions. During these deliberative sessions ACRS consultants will provide their final recommendations and members will exchange and discuss their final opinions and recommendations on this project.

FRIDAY, NOVEMBER 7, 1975

8:30–9 a.m.: Executive Session (Closed)—The Committee will meet in closed Executive Session to discuss the evaluation of the Subcommittee and the recommendations and opinions of individual members and consultants who may be present regarding matters which should be considered during the following open session to formulate a Committee report and recommendations to the Nuclear Regulatory Commission regarding the Jamesport Nuclear Power Station Units 1 and 2.

9 a.m.–1 p.m.: Jamesport Nuclear Power Station Units 1 and 2 (Open)—The Committee will hear presentations by and hold discussions with representatives of the applicant and the NRC Staff regarding the request for a construction permit for this facility. Closed portions will be held if necessary to discuss proprietary information related to the design, construction and/or operation of this Station. Closed portions will also be held if required to discuss security arrangements for this plant and for Committee deliberative sessions. During these deliberative sessions ACRS consultants will present their final recommendations and ACRS members will exchange and discuss their final opinions and recommendations regarding this project.

2–2:30 p.m.: Executive Session (Closed)—The Committee will meet in closed Executive Session to discuss the evaluation of the Subcommittee and the comments and recommendations of individual ACRS members and consultants who may be present regarding matters which should be considered during the following open meeting in order to formulate a Committee report and recommendations to the Nuclear Regulatory Commission regarding the Floating Nuclear Plant Units 1–8.

2:30–6:30 p.m.: Floating Nuclear Plant Units 1–8 (Open)—The Committee will hear presentations by and hold discussions with representatives of the applicant and the NRC Staff regarding the request for manufacturing approval for the Floating Nuclear Plant Units 1–8. Closed portions will be held if required to discuss proprietary information related to the design, construction and/or operation of these units. Closed portions will also be held if necessary to discuss security arrangements for these plants and for Committee deliberative sessions. During these deliberative sessions ACRS consultants will provide their final recommendations and ACRS members will exchange and discuss their final opinions and recommendations on this project.

SATURDAY, NOVEMBER 8, 1975

8:30 a.m.–4:30 p.m.: Executive Session (Closed)—The Committee will meet in closed Executive Session to: exchange personal opinions and recommendations regarding preparation of final advice to the Nuclear Regulatory Commission on the cases considered at this meeting and a proposed ACRS report on the status of generic items related to light water power reactors; to discuss potential candidates for appointment to the Committee. This discussion will include personal and financial information, if required, the disclosure of which would clearly represent an undue invasion of privacy; to exchange opinions and recommendations of individual members regarding the activities of the ACRS Working Group on the Hypothetical Core Disruptive Accident for Fast Reactors; to consider ACRS procedures regarding preparation of ACRS reports and the assignment and use of consultants. Individual opinions and recommendations will be exchanged leading to the formulation of Committee policy and procedures; to discuss opinions and recommendations of individual members regarding the adequacy of proposed Regulatory Guides in the formulation of advice to the NRC Executive Director for Operations regarding these proposed Guides.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close portions of the meeting as noted above to protect

proprietary data (5 U.S.C. 552(b)(4)), to protect the free exchange of opinion during the Committee's deliberative process (5 U.S.C. 552(b)(5)), and to preclude unwarranted invasion of privacy (5 U.S.C. 552(b)(6)). These closed sessions will consist primarily of deliberative discussion among the Committee members leading to the formulation of advice and recommendations to the Nuclear Regulatory Commission. Separation of factual information from the individual advice, opinion or recommendations of ACRS members and consultants during this discussion is not considered practical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing a readily reproducible copy to the Committee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview. Persons desiring to mail written comments may do so by mailing a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 29, 1975, to the Executive Director, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, DC 20555 will normally be received in time to be considered at this meeting. Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and at the following public document rooms:

Floating Nuclear Plant

1. Jacksonville Public Library, 122 North Ocean Street, Jacksonville, FL 32204.
2. New Orleans Public Library, Business and Science Division, 219 Loyola Avenue, New Orleans, LA 70140.
3. Stockton State College Library, Pomona, NJ 08240.

Jamesport 1 and 2

Riverhead Free Library, 330 Court Street, Riverhead, NY 11901.

Palo Verde 1, 2, and 3

Phoenix Public Library, Science and Industry Section, 12 East McDowell Road, Phoenix, AZ 85044.

Pilgrim 1 and 2

Plymouth Public Library, North Street, Plymouth, MA 02360.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Committee.

(c) Further information regarding topics to be discussed, whether the meeting or portions of the meeting have been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor, can be obtained by a prepaid telephone call on November 5, 1975, to the Office of the Executive Director of the Committee (Telephone: 202-634-1371) between 8:15 a.m. and 5 p.m., Eastern Time. It should be noted that the schedule noted above is tentative, based on the anticipated availability of related information, etc. It may be necessary to reschedule items to accommodate required changes. The ACRS Executive Director will be prepared to describe these changes on November 5, 1975.

(d) Questions may be propounded only by members of the Committee and its consultants.

(e) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information other than plant security information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed. The Executive Director of the ACRS should be informed of such an agreement at least 3 days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of this agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Executive Director at the beginning of the meeting.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of the minutes of the meeting will be made available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. on or after February 6, 1976. Copies may be obtained upon payment of appropriate charges.

Dated: October 20, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-28539 Filed 10-21-75;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Subcommittee and Full Committee Meetings; Preliminary Schedule

In order to provide advance information regarding proposed ACRS Subcommittee and full Committee meetings, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed Subcommittee and full Committee meetings published at 40 FR 43959, September 24, 1975. Those meetings that are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the November 6-8, 1975 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-1406, Attention: Mary E. Vanderholt) between 8:15 a.m. and 5 p.m. e.d.t. through October 24 and e.s.t. after October 27, 1975.

SUBCOMMITTEE MEETINGS

**Palo Verde Nuclear Plant, Units 1, 2, and 3*, October 20, 1975 (Rescheduled from November 25, 1975), Phoenix, AZ to review the application of Arizona Public Service Company to construct this plant. Notice published in FR Vol. 40, No. 193, Pg. 45875, October 3, 1975.

**Plutonium Shipping Packages Working Group*, October 23, 1975, Washington, D.C. (Rescheduled from October 20, 1975, Chicago, IL) to evaluate the ability of the packages used for shipping plutonium and other comparably hazardous materials to survive airplane crashes. Notice published in FR Vol. 40, No. 196, Pg. 47220, October 8, 1975.

**Washington Public Power Supply Systems, Projects 3 and 5*, October 23, 1975, Richland, WA—Postponed.

**Architect-Engineer Balance of Plant*, October 24, 1975, Washington, D.C.—Postponed.

**Waste Management*, October 23-24, 1975, Washington, D.C.—Rescheduled to November 13-14, 1975, Washington, D.C.

**Floating Nuclear Plant*, October 29-30, 1975, Jacksonville, FL to review the application of Offshore Power Systems for a manufacturing license (preliminary design) for eight reactor units. Notice published in FR Vol. 40, No. 199, Pg. 48190, October 14, 1975.

**Jamesport Nuclear Power Station, Units 1 and 2*, Oct. 30, 1975 (rescheduled from November 13, 1975), Ronkonkoma, L.I., NY, to review the construction permit application. Notice published in FR Vol. 40, No. 200, Pg. 48404, October 15, 1975.

**Pilgrim Station, Unit 2*, November 4, 1975, Plymouth, MA, to review the application of Boston Edison Company for a permit to construct Unit 2. Notice has been sent to the FEDERAL REGISTER.

**Regulatory Guides*, November 5, 1975, Washington, D.C., to review working papers regarding future Regulatory Guides and pro-

posed changes to existing Guides. Notice has been sent to the FEDERAL REGISTER.

**Palo Verde Nuclear Plant, Units 1, 2, and 3*, November 5, 1975, Washington, D.C., to continue review of the application of Arizona Public Service Company for a permit to construct this plant. Notice has been sent to the FEDERAL REGISTER.

Procedures, November 5, 1975, Washington, D.C., to discuss proposed changes to Committee policy and practices regarding the preparation of ACRS reports to the Nuclear Regulatory Commission. Notice published in FR Vol. 40, No. 200, Pg. 48404, October 15, 1975.

**Waste Management*, November 13-14, 1975, Washington, D.C., to gather further information concerning waste management procedures.

**Diablo Canyon Nuclear Power Station, Units 1 and 2*, November 14, 1975, San Luis Obispo, CA to continue the review of the application of the Pacific Gas and Electric Company for an operating license.

**Tyrone Energy Park, Units 1 and 2*, November 20-21, 1975, Eau Claire, WI, to review the application of the Northern States Power Company for a permit to construct Units 1 and 2.

**Inspection and Enforcement Activities*, November 21, 1975, Washington, D.C., to discuss third-party inspection and the roles of inspection and examination organizations in relation to nuclear safety.

**Regulatory Guides*, December 3, 1975, Washington, D.C., to review working papers regarding future Regulatory Guides and proposed changes to existing Guides.

**Hartsville Nuclear Power Plant, Units 1, 2, 3, and 4*, December 17-18, 1975, Hartsville, TN, to review the application of the Tennessee Valley Authority for a permit to construct Units 1, 2, 3, and 4.

**Perkins Nuclear Station, Units 1, 2, and 3*, December 17, 1975, Charlotte, NC, to review the application of the Duke Power Company for a permit to construct Units 1, 2, and 3.

**Cherokee Nuclear Station, Units 1, 2, and 3*, December 18, 1975, Charlotte, NC, to review the application of the Duke Power Company for a permit to construct Units 1, 2, and 3.

**Seismic Activities Subcommittee*, a two-day meeting is planned during the period December 8-20, 1975. Subjects will include seismicity/seismic design in the eastern United States.

FULL COMMITTEE MEETINGS

November 6-8, 1975, Washington, D.C.

A. *Floating Nuclear Plant—manufacturing license.

B. *Pilgrim Station, Unit 2—construction permit.

C. *Palo Verde Nuclear Plant—construction permit.

D. *Jamesport Nuclear Power Station—construction permit.

December 4-6, 1975, Washington, D.C.

Agenda to be published later.

Dated: October 17, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-28415 Filed 10-21-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

INTERNATIONAL PHASE OF OCEAN DRILLING

Summary Notice of Federal Action Affecting the Environment

A summary statement concerning the International Phase of Ocean Drilling of the Deep Sea Drilling Project was published in the *Federal Register* on June 5, 1975 (40 F.R. 24251). Comments received on the draft environmental impact statement have been reviewed and taken into consideration in preparing the final impact statement.

The final environmental statement has been filed with the Council on Environmental Quality and is available to the public. Copies may be obtained from the Deputy Assistant Director for Astronomical, Atmospheric, Earth, and Ocean Sciences, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Dated: October 16, 1975.

DANIEL HUNT,
Special Assistant for National Centers and Programs.

[FR Doc.75-28389 Filed 10-21-75;8:45 am]

ADVISORY PANEL ON SCIENCE EDUCATION PROJECTS SUBPANEL ON STUDENT SCIENCE TRAINING

Notice of Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel on Science Education Projects—Subpanel on Student Science Training.
Date: November 6 through 8, 1975.
Time: 9:00 a.m. on November 6, 8:00 a.m. on November 7 and 8.
Place: Sheraton-Park Hotel and Motor Inn, Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Max Ward, Program Manager, Student Science Training Program, National Science Foundation Rm. 634-W, Washington, D.C. 20550, telephone 202/282-7900.
Purpose of subpanel: To provide advice and recommendations concerning the merit of specific education proposals submitted to the Student Science Training Program for consideration.
Agenda: Review and evaluate specific education proposals.
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 education proposals. These matters are within the exemptions of 5 U.S.C. 552(b), (4), (5), and (6).
Authority to close meeting: The determination made by the Director of the National Science Foundation dated February 21, 1975, pursuant to provisions of Section 10(d) of Public Law 92-463.

GAIL A. MCHENRY,
Acting Committee Management Officer.

OCTOBER 20, 1975.

[FR Doc.75-28572 Filed 10-21-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Notice of Suspension of Trading

OCTOBER 15, 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 16, 1975 through October 25, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28397 Filed 10-21-75;8:45 am]

[Rel. No. 8989 (812-3818)]

COWLES COMMUNICATIONS, INC., AND ARTHUR H. DIEDRICK, JR.

Notice of Filing of Application

OCTOBER 15, 1975.

NOTICE IS HEREBY GIVEN that Cowles Communications, Inc. ("Cowles"), 488 Madison Avenue, New York, New York 10022, a closed-end, non-diversified, management investment company registered under the Investment Company Act of 1940 ("Act") has filed an application pursuant to Section 17(b) of the Act for an order exempting from Section 17(a)(2) of the Act the sale by Cowles of Travel Communications, Inc. ("TCI"), a Delaware corporation, to Arthur H. Diedrick, Jr. ("Diedrick"), 635 Park Avenue, New York, New York 10021. All interested persons are referred to the Application on file with the Commission for a statement of representations made therein, which are summarized below.

Cowles was incorporated under the laws of Iowa in 1936 and registered under the Act in 1971. TCI, a Delaware corporation, is a wholly owned subsidiary of Cowles. TCI publishes several publications relevant to the travel industry including among others, ASTA Travel News, the official publication of the American Society of Travel Agents. Diedrick is a Vice President and employee of Cowles. He is also a President and a Director of TCI.

Pursuant to an Agreement dated as of May 9, 1975 (the "Agreement"), Diedrick

proposes to acquire all of the issued and outstanding capital stock of TCI ("TCI Stock") in exchange for:

(a) A cash payment by Diedrick to Cowles of $62,500 on the date of the proposed transaction is closed (the "Closing Date");

(b) the execution and delivery on the Closing Date by Diedrick of his promissory note in the aggregate principal amount of $62,500;

(c) the payment by Diedrick to Cowles, within five days of his receipt from Cowles of the balance sheet of TCI as of the Closing Date, of an amount equal to the excess of current assets (determined as provided in the Agreement) over current liabilities (determined as provided in the Agreement) shown thereon. (If current liabilities (as so determined) exceed current assets (as so determined), Cowles will pay such excess to Diedrick within such five day period); and

(d) the payment by Diedrick to Cowles within such five days period of an amount equal to the book value (after allowance for depreciation) of the fixed assets of TCI as shown on the balance sheet of TCI as of the Closing Date.

The Agreement provides that in the event that after the Closing Date TCI incurs a net operating loss or capital loss or has an investment tax credit or foreign tax credit which may be carried back to any year in which Cowles filed a consolidated federal income tax return which included TCI, TCI will execute and file a refund claim therefor, and Cowles will be entitled to receive and retain the amount of any such refund.

The Agreement further provides that on the Closing Date TCI will assign to Cowles all of TCI's trade accounts receivable (and the accounts so assigned will be excluded from TCI's current assets as of the Closing Date), and Cowles will appoint TCI as its agent for the collection of such accounts for an initial term of 18 months. TCI will receive no remuneration from Cowles for so acting. Diedrick will cause TCI to pay to Cowles all amounts collected by TCI on such accounts, and Diedrick has agreed that, with certain limited exceptions, all amounts received by TCI from debtors whose trade account receivables are assigned to Cowles and who became indebted to TCI after the Closing Date shall first be applied to the oldest outstanding receivable of Cowles or TCI from such debtor.

On or before closing the transaction, Diedrick will submit to Cowles his resignation as a Vice President and employee of Cowles.

It is the intention of Cowles and Diedrick to close the transaction as promptly as possible after receipt of the order pursuant to their application, effective as of October 1, 1975, and as though that date were the Closing Date.

Section 17(a)(2) of the Act provides, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company knowingly to purchase from such registered company any security or other property (except securities of which the seller is the issuer).

Section 17(b) of the Act provides that, notwithstanding Section 17(a), any person may file with the Commission an application for an order exempting a proposed transaction from one or more provisions of that Section, and that the Commission shall grant such application and issue such order of exemption if evidence establishes that:

(1) the terms of the proposed transaction, including the consideration to be paid or received, as reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) the proposed transaction is consistent with the policy of each registered investment company concerned as recited in its registration statement and reports filed under the Act; and

(3) the proposed transaction is consistent with the general purposes of the Act.

Since Diedrick is a Vice President and employee of Cowles he is an "affiliated person" of Cowles as defined by Section 2(a)(3) of the Act.

In support of their application for an order pursuant to Section 17(b) of the Act, Cowles and Diedrick state that Cowles retained an independent financial consultant to newspapers and television stations to appraise the value as of December 31, 1974 of TCI. Such consultant concluded that TCI had a value as of December 31, 1974 of $386,606.

Because there was no ascertainable market value for TCI, the Board of Directors of Cowles in good faith determined the estimated fair value of TCI as of December 31, 1974 to be the aggregate of Cowles' investment in, and advances to, TCI as of that date which aggregated $196,000.

If the closing of the transaction contemplated by the Agreement had taken place on December 31, 1974, pursuant to the terms of the Agreement Cowles would have received from Diedrick an aggregate net payment of $393,048, which amount would have exceeded by $6,442 the total value placed on TCI by the consultant and by $197,048 Cowles' aggregate investment in, and advances to, TCI.

Cowles and Diedrick assert that the proposed transaction is fair, reasonable, and consistent with the general provisions of the Act.

NOTICE IS FURTHER GIVEN that any interested person may, not later than November 10, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28398 Filed 10-21-75;8:45 am]

[Rel. No. 8990; (811-1601); (811-2296)]

FORE FUND, INC., AND PARTNERS FUND, INC.

Notice of Filing of Application

OCTOBER 15, 1975.

NOTICE IS HEREBY GIVEN that The Fore Fund, Inc. ("Fore") and The Partners Fund, Inc. ("Partners") 120 Broadway, New York, New York 10005, diversified, open-end management investment companies registered under the Investment Company Act of 1940 ("Act"), filed application on March 10, 1975 and an amendment on June 13, 1975 for an order of the Commission pursuant to Section 6(c) of the Act declaring that Frederick P. Rose ("Rose") shall not be deemed an "interested person" of Fore or Partners within the meaning of Section 2(a)(19) of the Act solely by reason of his status as a director of Home Life Insurance Company ("Home Life"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Rose, a member of the Boards of Directors of Fore and Partners, is also a director of Home Life. Home Life is a mutual life insurance company organized under the laws of the State of New York on May 1, 1860 and has continuously engaged in the insurance business since that time. It is licensed to conduct a life insurance, annuity and health insurance business in all fifty states, the District of Columbia, and the Commonwealth of Puerto Rico. Solely because it sells variable annuity contracts, Home Life has registered as a broker-dealer under the Securities Exchange Act of 1934 (the "Exchange Act") and is a member of the National Association of Securities Dealers, Inc. Fore and Partners represent that Home Life is not in the business of effecting securities bookerage transactions and has never effected any securities brokerage transactions on behalf of Fore or Partners. Fore and Partners further represent that so long as Rose remains a director of Home Life and Fore or Partners respectively, they will not effect any securities brokerage transactions with Home Life.

Fore and Partners represent that Rose does not participate in the day-to-day operations of Home Life.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company to include any broker or dealer registered under the Exchange Act, or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an affiliated person of another person to include any director of such other person.

Rose, as director of Home Life, is an affiliated person of a broker or dealer, and is thus an "interested person" of Fore and Partners.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act or from any rule or regulation under the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Fore and Partners contend that Rose should not be deemed an "interested person" of Fore or Partners because his affiliation with Home Life does not affect, and will not impair, his independence in acting on behalf of Fore or Partners and their respective shareholders, and the requested exemption is therefore consistent with the provisions of Section 6(c) of the Act.

NOTICE IS FURTHER GIVEN that any interested person may, not later than November 10, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

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

[FR Doc.75-28399 Filed 10-21-75;8:45 am]

[70-5644); Release No. 19210]

SOUTHERN CO. AND SOUTHERN SERVICES, INC.

Notice of Proposal by Service Company To Issue and Sell Secured Notes and of Proposed Guaranty by Holding Company of Obligation Thereunder

OCTOBER 14, 1975.

NOTICE IS HEREBY GIVEN that The Southern Company ("Southern"), a registered holding company, and Southern Services, Inc. ("SSI"), Perimeter Center East, Atlanta, Georgia 30346, a wholly-owned nonutility subsidiary, have filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, and 12(b) of the Act and Rules 45 and 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to said application-declaration, which is summarized below, for a complete statement of the proposed transactions. A notice was previously issued in this proceeding (HCAR No. 18867 (March 14, 1975)); however, a new notice is being issued due to the time which has elapsed and substantial changes in certain terms and conditions of the proposed transactions.

In order to prepay certain outstanding unsecured term notes, SSI proposes to issue and sell a note ("Note") secured by a first lien on certain computer equipment. The Note is proposed to be in the aggregate principal amount of $9,300,000, maturing not later than December 31, 1981, payable in ten consecutive semi-annual installment payments, amortization to be on a constant payment basis. The Note will bear interest on the unpaid principal balance at a rate of 3¾% per annum in excess of the Governing Rate (as defined in the Loan and Security Agreement) from time to time in effect. The Governing Rate shall be the highest of (i) the base rate of First National City Bank, New York, New York, on 90-day loans to responsible and substantial commercial borrowers then in effect, (ii) the lowest per annum corporate lending rate publicly quoted by The Chase Manhattan Bank, N.A., New York, New York, for 90-day loans to responsible and substantial commercial borrowers then in effect, and (iii) the annual simple interest rate equivalent of the higher of the directly-placed commercial paper offering rates for any maturities of between 30 and 89 days. Not later than three years from the date of issue, SSI may prepay all or a portion of the Note at its option without penalty or premium. It is also proposed that Southern, as further inducement for the proposed loan to SSI, will unconditionally guarantee the payment of principal and interest on the Note when due.

The indebtedness which SSI proposes to prepay with the proceeds of the Note was incurred to finance acquisition of the computer equipment pursuant to the Commission's prior authorization in File No. 70-5061. The principal amount of such indebtedness estimated to be outstanding at November 1, 1975, is $9,114,288, and the interest rate is 125% of the prime rate. (With a prime rate of 8%, the interest rate would be 10%.) Upon prepayment of such outstanding indebtedness, the lender, Chemical Bank, New York, New York, has agreed to make $11,600,000 principal amount of short-term credit available to Southern and its operating subsidiaries under arrangements described in File No. 70-5471 and File No. 70-5463. While the interest cost of the Note may be greater than the interest cost of the indebtedness to be repaid, it is the opinion of Southern's management that this factor is outweighed by the current need of its operating subsidiaries for additional short-term credit and that it is in the interest of Southern's investors and of the investors and consumers of its operating subsidiaries for SSI to issue and sell the Note as proposed and prepay such outstanding indebtedness.

SSI has employed Morgan Stanley & Co. to place the Note for a commission, payable upon the closing, of not in excess of 1% of the principal amount of the Note. SSI has requested that the issuance and sale of the Note be exempted from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) thereof for the reasons that the requirements of Rule 50 are impracticable with respect to the proposed transactions and are unnecessary for the protection of investors or consumers to assure the maintenance of competitive conditions.

It is stated that, other than the commission of Morgan Stanley & Co., there are no fees, commissions, or expenses to be incurred in connection with the proposed transactions. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

NOTICE IS FURTHER GIVEN that any interested person may, not later than November 7, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C.

20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28400 Filed 10-21-75;8:45 am]

(SEC documents continued on page 49417.)

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 16, 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 thru 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

UNITED STATES INTERNATIONAL TRADE COMMISSION

Consumers' Questionnaire—Slide Fasteners, single-time, industrial consumers and retail stores, Evinger, S. K., 395-3710.

Distributors' Questionnaire—Slide Fasteners, single-time, domestic distributors, Evinger, S. K., 395-3710.

Importers' Questionnaire—Slide Fasteners, single-time, importers, Evinger, S. K., 395-3710.

Producers' Questionnaire—Slide Fasteners, single-time, domestic manufacturers, Evinger, S. K., 395-3710.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration: Estimated Schedule of Advances on FFB Notes Guaranteed by REA, REA 152, on occasion, REA Electric and Telephone Borrowers, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census: Stocks of Wool and Related Fibers in the United States, MA-22M, annually, companies and warehouses holding wool stocks, Peterson, M. O., 395-5631.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Center for Education Statistics: National Survey of the Preservice Preparation of Teachers, 2386, 2386-1, 2386-2, 2386-2-1, single-time, Administrators, Faculty and Students—Teacher/Train. Inst., Joan Turek.

National Institutes of Health:

Supplemental NIH 398 Instructions and Two Additional Forms: (1) Participants in Minority Biomedical Support Program; (2) Science Graduates, NIH-RR-1, on occasion, Colleges, Universities, Indian Reservations, Lowry, R. L., 395-3772.

Supplemental PHS 2590-1 Instructions and Two Additional Forms: (1) Participants in MBS Program; (2) Science Graduates, NIH-RR-8, on occasion, Colleges, Universities, Indian Reservations, Lowry, R. L., 395-3772.

DEPARTMENT OF LABOR

Labor-Management and Service Administration: Annual Status Report—Employee Retirement Plans, DOL 5500, annually, administrators of pension and welfare plans, Strasser, A., 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Request for Approval of Schqol Attendance, 21-674, on occasion, dependents of veterans, Caywood, D. P., 395-3443.

ENVIRONMENTAL PROTECTION AGENCY

Ground Water Pollution Problems in the Southeastern United States, on occasion, water resources professionals, Natural Resources Division, 395-6827.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service:

Poultry and Egg Prices, monthly, poultry and egg buyers, Marsha Traynham, 395-4529.

Livestock Slaughter Report (Non-Federally Inspected), monthly, livestock slaughter plants, Marsha Traynham, 395-4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration: Inventory of Mental Health Facilities, ADM 25-1, annually, General Hospitals, Dick Eisinger, 395-6140.

Center for Disease Control: X-ray Exam Program-Federal Coal Mine Health and Safety Act, NIOSH-19, on occasion, miners, mine operators and physicians, Ellett, C. A., 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-28542 Filed 10-21-75;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 15, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

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NEW FORMS

COMMUNITY SERVICES ADMINISTRATION

CAA Programmatic and Budgetary Survey, single-time, CAA Grantees, Human Resources Division, Harry B. Sheftel, 395-3532.

ACTION

Youth Challenge Program Evaluation, Study—Followup Forms for Phase II, single-time, YCP Participating Agency Dir. and Educational Institutions, Community and Veterans Affairs Division, Lowry, R.L., 395-3532.

UNITED STATES INTERNATIONAL TRADE COMMISSION

Producers' and Importers' Questionnaires, stainless steel flatware, single-time, U.S. Stainless Steel Flatware Producers and Importers, Evinger, S.K., 395-3710.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration: Analysis of Provider-Based Physician Compensation, SSA-3180, on occasion, providers serviced by DDR Human Resources Division, Caywood, D. P., 395-3532.

Health Services Administration: Navajo Health Authority Study of Health Care Services—Consumer Survey, HSAIHS 1003, single-time, households in 3 IHS Service Units, Dick Eisinger, 395-6140.

REVISIONS

VETERANS ADMINISTRATION

Application for Burial, 4C-4962, on occasion, funeral homes, Caywood, D. P., 395-3443.

Report of Income from Property or Business, 21-4185, on occasion, veteran's dependents, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service: January acreage survey, annually, farmers, Lowry, R. L., 395-3772.

Cattle on Feed Inquiries, quarterly, cattle feeders, Lowry, R.L. 395-3772.
feeders, Lowry, R.L., 395-3772.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management Disaster Assistance Registration Form, HUD 223, on occasion, disaster victims, Community and Veterans Affairs Division, Sunderhauf, M.B., 395-3532.

EXTENSIONS

SMALL BUSINESS ADMINISTRATION

Evaluation of Small Business Institute Program Part III Small Bus. Owner or Manager, on occasion, variety of small firms, Economics and General Government Division, Lowry, R.L., 395–3451.

DEPARTMENT OF COMMERCE

Bureau of East-West Trade:
- Exception to Reporting Requirement of Order Party Signature, ECR 372.6, on occasion, Marsha Traynham, 395–4529.
- Reporting Requirements for General License Requirements, ECR 371.17, on occasion, commercial exporters, Marsha Traynham, 395–4529.
- Triangular and Other Transactions Involving Commodities Covered by U.S. Import Certificate, ECR 368.2, on occasion, commercial exporters, Marsha Traynham, 395–4529.
- Statement by Foreign Importer of Aircraft or Vessel Repair Parts (Form), DIB 686P, annually, commercial exporters, Marsha Traynham, 395–4529.
- Swedish Consignee's Letter of Assurance, on occasion, commercial exporters, Marsha Traynham, 395–4529.
- Reporting Requirement for Commodities Covered by a U.S. Import Certificate Proposed for Export to Canada, ECR 368.2, on occasion, commercial exporters, Marsha Traynham, 395–4529.
- Reexportation to Certain Specified Destinations and Reexportation from Switzerland (Reporting Requirement), ECR 374.3(D), on occasion, commercial exporters, Marsha Traynham, 395–4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control: Trade Name Request Form for National Occupational Hazard Survey, NIOSH15, on occasion, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-28543 Filed 10-21-75;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 17, 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

FEDERAL RESERVE SYSTEM

Weekly Survey of Savings Deposits by Ownership Categories, FR 416E, weekly commercial banks, Hulett, D. T., 395–4730.

U.S. INTERNATIONAL TRADE COMMISSION

Producers' Questionnaire—Footwear, single-time, producers, Evinger, S. K., 395–3710.

Importer's Questionnaire—Footwear, single-time, importer, Evinger, S. K., 395–3710.

NATIONAL SCIENCE FOUNDATION

Minority Institutions Science Improvement Program, Reviewers Information Sheet, on occasion, college and university faculty and administrators, Lowry, R. L., 395–3772.

U.S. CIVIL SERVICE COMMISSION

Information Regarding Close Relatives, CSC 328, on occasion, applicants, Caywood, D. P., 395–3443.

Authority for Release of Information, CSC 329, on occasion, Caywood, D. P., 395–3443.

Inquiry for U.S. Government Use Only (Law enforcement data for NACI), OF–51, on occasion, law enforcement agencies, Caywood, D. P., 395–3443.

Inquiry for U.S. Government Use Only (Employment data for NACI), of 49, on occasion, all classes of employers and references, Caywood, D. P., 395–3443.

Inquiry for U.S. Government Use Only (Educational data for NACI), of 50, on occasion, educational institutions, Caywood, D. P., 395–3443.

Identification and Personnel Data for Employment of U.S. Citizen, ILB–2, on occasion, applicants, Marsha Traynham, 395–4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education: Survey of Military-Developed Curriculum Materials Utilization in Vocational Education, OE 441, single-time, school teachers and counselors, Joan Turek.

Office of Education: Questionnaire on School Construction Financing, OE–442, single-time, local educational agency, Sunderhauf, M. B., 395–6140.

Office of Human Development: Questionnaire for Vocational Rehabilitation Agencies on Usage of Similar Benefits, single-time, State vocational rehabilitation agency directors and staff, Sunderhauf, M. B., 395–6140.

REVISIONS

DEPARTMENT OF AGRICULTURE

Farmers Home Administration Study to Assess Attitudes of Moderate-Income, Small Town Families Toward Basic Housing Alternatives, (in Iowa), single-time, households in 48 small Iowa towns, Sunderhauf, M. B., 395–6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Resurvey of Primary Care Physicians and Analysis of Factors Affecting Physician Care Production Decisions, BMM 0922, single-time, receptionists of primary care physicians, Dick Eisinger, 395–6140.

EXTENSIONS

U.S. CIVIL SERVICE COMMISSION

Security Investigation Data for Sensitive Position, SF–86, on occasion, applicants, Marsha Traynham, 395–4529.

Data for Nonsensitive of Noncritical-Sensitive Position, SF–85, on occasion, applicants, Marsha Traynham, 395–4529.

Supplemental Identification and Personnel Data for Employment of U.S. Citizen, ILB–3, on occasion, applicants, Caywood, D. P., 395–3443.

DEPARTMENT OF DEFENSE

Departmental and Other Application for Frequency Assignment (Military Electronic Equipment), DD–1494, on occasion, DOD agencies and installations, Marsha Traynham, 395–4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Application for Training Grant and Continuation Report, PHS–2499–2, on occasion, researchers/training, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-28570 Filed 10-21-75;8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

CONTINENTAL VENDING MACHINE CORP.

Suspension of Trading

OCTOBER 16, 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 17, 1975 through October 26, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28440 Filed 10-21-75;8:45 am]

[Rel. No. 8991 (812–3853)]

DISCOUNT INCOME TRUST FUND, FIRST MONTHLY PAYMENT SERIES (AND SUBSEQUENT SERIES)

Notice of Filing of Application

OCTOBER 16, 1975.

NOTICE IS HEREBY GIVEN that the Discount Income Trust Fund, First Monthly Payment Series and Subsequent Series ("Applicant"), c/o Bache & Co. Incorporated, 100 Gold Street, New York, New York 10038, a unit investment trust registered under the Investment Company Act of 1940 ("Act") filed an application on August 29, 1975, and an amendment thereto on September 30, 1975, pursuant to Section 6(c) of the Act for exemption from the provisions of Section 14(a) of the Act and Rules 19b–1 and 22c–1 under the Act. All interested persons are referred to the application on file with the Commission for a statement

of the representations therein, which are summarized below.

Applicant is a registered unit investment trust organized under the laws of the State of Massachusetts. It is intended that the United States Trust Company of New York will ac as Trustee of Applicant ("Trustee") and New England Merchants National Bank will act as Co-Trustee of Applicant ("Co-Trustee") pursuant to a trust agreement ("Trust Agreement") between the Trustee, Co-Trustee and Bache & Co. Incorporated as sponsor ("Sponsor"). Interactive Data Services, Inc. will serve as evaluator ("Evaluator") with respect to each series of Applicant.

The Sponsor proposes at the date of deposit of the portfolio securities for Applicant's first series to deliver to the Trustee, securities representing debt obligations of corporations and other entities which will be in excess of $5,000,000. For each additional series, it is represented that the portfolio will be greatly in excess of $100,000, although the size of future series has not yet been established.

SECTION 14(a)

Section 14(a) of the Act, in substance, provides that no registered investment company and no principal underwriter for such a company shall make a public offering of securities of which such company is the issuer unless (1) the company has a net worth of at least $100,000; (2) at the time of a previous public offering it had a net worth of $100,000; or (3) provision is made that a net worth of $100,000 will be obtained from not more than twenty-five responsible persons within ninety days, or the entire proceeds received, including sales charge, will be refunded.

Applicant asserts that the purpose of Section 14(a) is to discourage the irresponsible formation of investment companies by persons of little substance and that any requirement of the type provided by Section 14(a)(3) of the Act that the Sponsor or others invest $100,000 or more in units prior to the public offering will only increase the costs to the Sponsor of marketing the units without significantly increasing the protection to unit holders. Applicant states that each such series of the Trust will have a net worth greatly in excess of $100,000 prior to the time at which effectiveness is requested for the series under the Securities Act.

The Sponsor has agreed to the requested exemption being subject to the condition that it refunds, on demand and without deduction, all sales charges to purchasers of units of a series if within ninety days from the time when that series becomes effective under the Securities Act, the net worth of the series shall be reduced to less than $100,000 or if the series shall have been terminated. The Sponsor further agrees to instruct the Trustee on the date of deposit of each series that in the event that redemption by the Sponsor of units constituting a part of the unsold units shall result in that series having a net worth of less than $3,000,000 the Trustee shall terminate the series in the manner provided in the Trust Agreement and Indenture and distribute all securities and other assets deposited with the Trustee pursuant to the Trust Agreement as provided therein and to refund any sales charge to any purchaser of units purchased from the Sponsor or any underwriter or dealer participating in the underwriting on demand and without any deduction.

RULE 19b-1

Rule 19b-1 provides, in part, that no registered investment company which is not a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall make more than one distribution of long-term capital gains in any one taxable year of such investment company.

Applicant seeks to follow the course of distributing principal, including any capital gains, and interest on each series to unitholders each month. Applicant states that distributions of principal constituting capital gain to unitholders may arise: if obligations are liquidated in order to provide funds necessary to meet redemptions; if an issuer calls or redeems an issue held in the portfolio; and if Applicant disposes of obligations in order to maintain its qualification as a regulated investment company under the Internal Revenue Code.

Applicant states that the dangers against which Rule 19b-1 is intended to guard will not exist in connection with the its series since the Sponsor has no control over the events which could trigger capital gains. Applicant states that it would be to the detriment of unitholders if it were forced to withhold monies constituting capital gains from such unitholders until the end of the year.

Paragraph (b) of Rule 19b-1 provides that a unit investment trust may distribute capital gain dividends received from a "regulated investment company" within a reasonable time after receipt. Applicant states that the purpose behind such provision is to avoid forcing unit investment trusts to accumulate valid distributions received throughout the year and distribute them only at year end. Applicant further alleges that its situation places it squarely within the purpose of such provision. However, in order to comply with the literal requirements of the Rule, Applicant would be forced to hold any monies which would constitute capital gains upon distribution until the end of its taxable year. Applicant contends that such a practice would clearly be to the detriment of unitholders.

RULE 22c-1

Rule 22c-1 provides, in part that redeemable securities of registered investment companies may be sold, redeemed or repurchased at a price based on the current net asset value (computed on each day during which the New York Stock Exchange is open for trading not less frequently than once daily as of the time of the close of trading on such Exchange) which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

Applicant states that Investment Company Act Releases Nos. 5413 and 5519 put forward two purposes for Rule 22c-1: (1) to eliminate or reduce any dilution of the value of outstanding redeemable securities of registered investment companies which would occur through the redemption or repurchase of such securities at a price above their net asset value or the sale of such securities at a price based on a previously established net asset value which would permit a potential investor to take advantage of an upswing in the market and the accompanying increase in the net asset value of the securities; and (2) to minimize speculative trading practices in the securities of registered investment companies.

Applicant represents that: the Sponsor, while not obligated to do so, presently intends to maintain a market for the units of Applicant and continously to offer to purchase units at prices in excess of the redemption price established as of the previous Friday; transactions in units of Applicant in the secondary market will be made by the Sponsor and not Applicant and cannot dilute the value of outstanding units; and since Applicant is designed for investors who desire fixed income, the secondary market trading will not be attractive to speculators.

Applicant states that the application of Rule 22c-1 to the units, causing additional evaluations by the evaluator, which is paid for each evaluation, would be so costly as to be significantly detrimental to the interests of the unitholders.

Applicant further asserts that "backward pricing" is necessary to enable the Sponsor to quote a price at which it will purchase units. Trades accomplished at a price to be determined several days in the future, the Applicant contends, would be unsatisfactory to the unitholders as well as to the Sponsor.

In addition, the application states that the Evaluator can informally determine whether or not the repurchase price is at least equal to the current bid price; if not, a full evaluation will be ordered. In the case of resale, if the Evaluator cannot state that the previous Friday's price is no more than one-half point ($5.00 per $1,000 principal amount of underlying obligations) greater than the current price, a full evaluation will be ordered.

Rule 22c-1, in addition, requires that net asset value be determined as of the time of the close of trading on the New York Stock Exchange. The sponsor states that it is anticipated that many of the obligations in the portfolios of the various series will be traded either exclusively or principally in the over-the-counter market, and, therefore, the time of the close of trading is not sufficiently related to evaluation procedures used in determining net asset values of the series. The sponsor states also that the

Evaluator has indicated that a set 4:00 p.m. evaluation time would be the most reliable time for evaluations, without regard to the time of the close of trading on the New York Exchange.

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions from any provision of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

NOTICE IS FURTHER GIVEN that any interested person, may, not later than November 10, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive 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 Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28442 Filed 10-21-75;8:45 am]

[Rel. No. 8993; (812-3784)]

FIRST INVESTORS CORP.; FIRST INVESTORS SINGLE PAYMENT AND PERIODIC PAYMENT PLANS FOR INVESTMENT IN FIRST INVESTORS TREND FUND, INC.

Notice of Application

OCTOBER 16, 1975.

NOTICE IS HEREBY GIVEN that First Investors Single Payment and Periodic Payment Plans for Investment in First Investors Trend Fund, Inc., 120 Wall Street, New York, New York 10005 ("Trend Fund Plans") registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and its sponsor-depositor and principal underwriter, First Investors Corporation ("First Investors") (together, the "Applicants"), filed an application on March 24, 1975, and an amendment thereto on September 29, 1975, pursuant to section 6(c) of the Act for an order exempting Applicants from the provisions of Section 14(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The underlying investment for Trend Fund Plans is Trend Fund, Inc. ("Trend Fund"), a diversified mutual fund organized under New York law which registered under the Act in June of 1952. As of June 30, 1975, Trend Fund had 201,704 shares of stock outstanding, with an aggregate net asset value of $1,335,985, or $6.63 per share. Trend Fund Plans has been organized by First Investors to sell periodic payment plans to the public and invest the public offering proceeds exclusively in the shares of Trend Fund.

First Investors is an integrated securities firm conducting business as an over-the-counter broker-dealer, a dealer in, and underwriter of, investment company securities, as the sponsor-depositor of six active unit investment trusts of the contractual plan type in addition to Trend Fund Plans,[1] and as sponsor-depositor of another newly-organized unit investment trust, First Investors Single Payment and Periodic Payment Plans for Investment in First Investors Fund for Income, Inc. ("Income Fund Plans"). Applicants represent that First Investors and its predecessors have been in operation since 1939 and have established a recognized expertise in the mutual fund contractual plan field. First Investors, which had a net worth of $3,893,341 as at December 31, 1974, is a wholly owned subsidiary of First Investors Consolidated Corporation, which also owns all the voting common stock of First Investors Management Company, Inc. ("Management Company"), the investment adviser to, and co-principal underwriter with First Investors of, Trend Fund.

Section 14(a) of the Act requires that a registered investment company (1) have a net worth of at least $100,000 prior to making a public offering of its securities, (2) have previously made a public offering and at that time have had a net worth of $100,000, or (3) have made arrangements for at least $100,000 to be paid in by 25 or fewer persons before acceptance of public subscriptions.

Applicants submit that the purpose of section 14(a) is (1) to limit the persons who manage funds in which members of the public are asked to invest their money either to those who invest enough of their own funds in the enterprise to provide it with a net worth of $100,000 or to those who have the confidence of a small number of persons willing to invest that amount, and (2) to prevent the formation of inadequately funded investment companies. Applicants contend that the first purpose of section 14(a) is not relevant in this case because the sponsor of Trend Funds Plans is not offering public investors any management service. Rather, the capital of Trend Fund Plans will be invested directly in the pre-designated mutual fund, Trend Fund, and the shares of such fund will comprise the portfolio of Trend Fund Plans throughout the life of the trust except in the rare case of non-availability of Trend Fund shares or other failure of Trend Fund to meet the needs of Trend Fund Plans. In any event, any change in the portfolio would require Commission approval pursuant to section 26(b) of the Act, which makes it unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security without Commission approval. Thus, it is asserted that there is virtually no management discretion lodged in the sponsor-depositor of Trend Fund Plans; the management function, and thus the burden of meeting the Act's standard of management competency, assertedly rests entirely with the management of the underlying mutual fund, which of course has satisfied the provisions of section 14(a).

Applicants believe that the second objective of the initial net worth requirement is to prevent the formation of inadequately funded investment companies and establish some probability of success for them by assuring that sufficient capital is placed in these companies to prevent the capital of public investors from being used up by administrative costs. Applicants assert that in this case there is little danger of under-funding because the Trend Fund Plans itself will have no significant expenses. Sales charges and custodian and regulate administrative fees are paid to the sponsor-depositor from deductions from plan payments, and only fees of special administrative services and for special transactions are paid to the sponsor-depositor from income generated by the trust or from the proceeds of redemption of trusts' assests.

The charges that would be imposed in connection with the sale of interests in Trend Fund Plans are identical to the charges made in connection with all but

[1] The other unit investment trusts sponsored by First Investors are the following:

1. First Investors Single Payment and Periodic Payment Plans for Accumulation of Shares of Wellington Fund, Inc.
2. First Investors Single Payment and Periodic Payment Plans for Accumulation of Shares of First Investors Fund, Inc.
3. First Investors Single Payment and Periodic Payment Plans for Accumulation of Shares of Pundamental Investors, Inc.
4. First Investors Single Payment and Periodic Payment Plans for Accumulation of Shares of Anchor Growth Fund, Inc.
5. First Investors Single Payment and Periodic Payment Plans for Investment in First Investors Fund for Growth, Inc.
6. First Investors Single Payment and Periodic Payment Plans for Investment in First Investors Discovery Fund, Inc.

one of the six active unit investment trusts currently sponsored by First Investors.

First Investors has filed as part of the application, an undertaking to perform its duties as sponsor-depositor, as described in the registration statements of Trend Fund Plans under the Act and the Securities Act of 1933, respectively, from the effective date of the 1933 Act registration statement at least until Trend Fund Plans, has, as a result of receipt of public offering proceeds, attained a net worth of $100,000. First Investors states that its financial strength stands behind this undertaking.

Section 6(c) of the Act provides that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is hereby given that any interested person may, not later than November 11, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following November 11, 1975, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-28441 Filed 10-21-75;8:41 am]

[Release No. 34-11741; File No. SR-MSRB-75-1]

MUNICIPAL SECURITIES RULEMAKING BOARD

Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 10, 1975, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission the following proposed rule changes:

Rule 1. *Definitions*

(a) For purposes of the rules of the Municipal Securities Rulemaking Board, the terms used in such rules shall have the respective meanings set forth in the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) and the rules and regulations of the Securities and Exchange Commission thereunder.

(b) The term "Act" shall mean the Securities Exchange Act of 1934, as from time to time amended.

(c) The term "Board" shall mean the Municipal Securities Rulemaking Board.

(d) The term "Commission" shall mean the Securities and Exchange Commission.

Rule 2. *Meetings of the Board*

(a) Meetings of the Board shall be held at such times and places as the Board shall from time to time determine or as provided by rule of the Board.

(b) Notice of the time and place of a meeting of the Board shall be mailed to each member at such member's address appearing in the records of the Board, not later than the seventh day preceding the date on which the meeting is to be held, or shall be given by telephone or telegraph or by personal delivery not later than the third day preceding the date on which the meeting is to be held. Notice of a meeting of the Board need not be given to any member who submits a signed waiver of notice before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such member.

(c) A quorum of the Board shall consist of two-thirds of the members of the Board (at least one of whom shall be a public representative, one a broker-dealer representative and one a bank representative), and any action taken by the affirmative vote of not less than eight members of the Board at any meeting at which a quorum is present shall constitute the action of the Board. Unless otherwise provided by rule of the Board, the Board may act by resolution.

(d) Action by the Board may be taken without a meeting by written consent signed by each of the members of the Board and setting forth the action so taken.

Rule 3. *Rulemaking Procedures.*

The Board shall propose and adopt such rules as the Board, subject to the approval of the Commission, shall deem necessary or appropriate to effect the purposes of the Act with respect to transactions in municipal securities effected by brokers, dealers and municipal securities dealers, including, as a minimum, rules relating to those matters prescribed in section 15B(b)(2)(A) through (K) of the Act.

Upon adoption by the Board, the Board shall submit rule proposals to the Commission in accordance with the procedures set forth in section 19(b) of the Act and shall file such rule proposals with the appropriate regulatory agencies in accordance with the provisions of section 17(c)(1) of the Act. A rule proposal of the Board shall become a rule of the Board upon its approval by the Commission, pursuant to section 19(b)(2) of the Act, or upon filing with the Commission in accordance with the provisions of section 19(b)(3)(A) of the Act, or upon the determination of the Commission in accordance with the provisions of section 19(b)(3)(B) of the Act. Documents required to be submitted to the Commission in connection with rule proposals of the Board may be signed on behalf of the Board by any member of the Board designated by the Board for that purpose by resolution.

Rule 4. *Separately Identifiable Department or Division of a Bank.*

(a) A separately identifiable department or division of a bank, as such term is used in section 3(a)(30) of the Act, is that unit of the bank which conducts all of the activities of the bank relating to the conduct of business as a municipal securities dealer ("municipal securities dealer activities"), as such activities are hereinafter defined, *provided that:*

(1) Such unit is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's municipal securities dealer activities, including the supervision of all bank employees engaged in the performance of such activities; and

(2) There are separately maintained in or separately extractable from such unit's own facilities or the facilities of the bank, all of the records relating to the bank's municipal securities dealer activities, and *further provided that* such records are so maintained or otherwise accessible as to permit independent examination thereof and enforcement of applicable provisions of the Act, the rules and regulations thereunder and the rules of the Board.

(b) For purposes of this rule, the activities of the bank which shall constitute municipal securities dealer activities are as follows:

(1) underwriting, trading and sales of municipal securities;

(2) processing and clearance activities with respect to municipal securities;

(3) research, analysis and preparation of literature for use in connection with the activities described in paragraph (1) above; and

(4) maintenance of records pertaining to the activities described in paragraphs (1) through (3) above.

(c) The fact that directors and senior officers of the bank may from time to time set broad policy guidelines affecting the bank as a whole and which are not directly related to the day-to-day conduct of the bank's municipal securities dealer activities, shall not disqualify the unit hereinbefore described as a separately identifiable department or division of the bank or require that such directors or officers be considered as part of such unit.

(d) The fact that the bank's municipal securities dealer activities are conducted in more than one geographic organizational or operational unit of the bank shall not preclude a finding that the bank has a separately identifiable department or division for purposes of this rule, *provided, however,* that all such units are identifiable and that the requirements of subparagraphs (1) and (2)

of paragraph (a) of this rule are met with respect to each such unit. All such geographic, organizational or operational units of the bank shall be considered in the aggregate as the separately identifiable department or division of the bank for purposes of this rule.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes as set forth in the submission of the Municipal Securities Rulemaking Board (the "Board") are as follows:

PURPOSES OF PROPOSED RULE CHANGES

The respective purposes of the proposed rule changes are as follows:

Rule 1. The purpose of this rule is to define certain terms to be used in the rules of the Board. Rule 1 incorporates the definitions of terms set forth in the Securities Exchange Act of 1934, as amended (the "Act") and in the rules and regulations of the Securities and Exchange Commission (the "Commission") thereunder for purposes of the Board's rules, and specifically defines the terms "Act," "Board" and "Commission".

Rule 2. The purpose of this rule is to establish certain procedural requirements for meetings of the Board, including matters relating to notice, quorum and voting requirements.

Rule 3. The purpose of this rule is to establish certain procedural requirements with respect to rulemaking by the Board.

Rule 4. The purpose of this rule is to define the term "separately identifiable department or division" of a bank, as that term is used in section 3(a)(30) of the Act, in accordance with the Board's authority under section 15B(b)(2)(H) of the Act, in accordance with the Board's nition would permit departments or divisions of banks which meet the standards set forth in rule 4 to register as municipal securities dealers under section 15B (a) of the Act, rather than requiring the bank of which such a department or division is a part to register.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGES

Rule 1 of the Board merely defines terms which the Board contemplates will be used in other rules adopted by the Board, including the Board's rules 2 through 4 and does not affect matters of substance. With respect to rules 2 and 3, the Board is specifically authorized and directed under section 15B(b)(2)(I) of the Act to "provide for the operation and administration of the Board . . ." Rules 2 and 3, therefore, are necessary and appropriate, in accordance with the Board's authority under the Act, to provide procedures for meetings of the Board and Board rulemaking.

With respect to rule 4, the Board is specifically authorized and directed under section 15B(b)(2)(H) of the Act to "define the term 'separately identifiable department or division'," as that term is used in section 3(a)(30) of the Act with respect to banks. Section 15B(b)(2)(H) further specifies that a bank will not be deemed to be engaged in a municipal securities business through a separately identifiable department or division unless the department or division is organized and administered so as to permit independent examination and enforcement of applicable provisions of the Act, the rules and regulations of the Commission thereunder and the rules of the Board. Rule 4 sets forth standards designed to assure that the requirements of section 15B(b)(2)(H) are met. Among other matters, rule 4 requires that all of the bank's municipal securities dealer activities (which are defined in paragraph (b) of the rule) be conducted under the supervision and responsibility of officers designated by the Board for that purpose and that all of the bank's records pertaining to such activities be separately maintained in or extractable from the bank's facilities or the facilities of the department or division and be so maintained or otherwise accessible as to permit independent examination of such records and enforcement of the Act, the rules and regulations of the Commission and the rules of the Board.

Under rule 4 the fact that directors and senior officers may set broad policy guidelines affecting the bank as a whole and which are not directly related to the daily conduct of the bank's municipal securities dealer activities will not disqualify the department or division from being separately identifiable or require that such directors or officers be considered part of such department or division. The *Senate Report to Accompany S. 249* (the "Senate Report") indicates that senior officers and directors of the bank were to be considered directly engaged in the bank's municipal securities dealer activities only if they "personally intervened in the municipal securities activities" or "assumed any significant role" in such activities. (S. Rep. No. 94–75, 94th Cong., 1st Sess. 93 (April 14, 1975)) A bank which conducts municipal securities dealer activities in more than one geographic, organizational or operational unit will not be precluded from registering such units as a separately identifiable department or division, provided such units are, in fact, identifiable and can otherwise meet the requirements of rule 4 so as to assure that such department or division is organized and administered so as to permit independent examination and enforcement of applicable provisions of the Act, the Commission's rules and regulations and rules of the Board.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGES

The Board has not formally solicited comments on rules 1 through 4. However, in Securities Exchange Act Release No. 11585 (August 11, 1975) ("Release No. 11585"), the Commission solicited comments on matters relating to the registration of municipal securities dealers generally and on appropriate standards for determining when a department or division of a bank is so organized and administered as to be deemed to be a separately identifiable department or division, within the intent of section 15B(b)(2)(H) of the Act.

The Board understands that the Commission, in response to Release No. 11585, received 10 letters of comment relating to the subject matter of the Board's rule 4, which have been made available to the Board. In addition, the Board received directly three letters of comment on the subject matter of rule 4.

The comments received by the Commission relating to the subject matter of rule 4 generally urged that the Commission exempt banks from the registration requirements of section 15B(a) of the Act, pending adoption by the Board and effectiveness under section 19(b) of the Act, of a Board rule defining the term "separately identifiable department or division" of a bank. These commentators argued that to require banks as a whole to register prior to effectiveness of a Board rule pursuant to section 15B(b)(2)(H) of the Act would be inconsistent with the purposes of the Act. They also stressed that such requirement would be unduly burdensome to banks, since banks which had a department or division meeting the criteria set forth in the Board's rule would only be able to complete the registration process in a minimum of three steps, *i.e.*, registration and deregistration of the bank and registration of the department or division.

The comments received by the Commission and the Board also contained suggestions on the wording of the Board's definition. The Board believes that rule 4 is generally more comprehensive and specific than the suggestions received by the Commission and the Board.

BURDEN ON COMPETITION

The Board has determined that rules 1 through 4 do not impose any burden on competition. Further, none of the comments received by the Commission or the Board relating to the subject matter of rule 4 suggested that any such burden would be imposed by the definition of a "separately identifiable department or division" of a bank.

In accordance with section 19(b)(3)(A) of the Act, rules 2 and 3 of the Board became effective upon filing with the Commission. On October 15, 1975 the Commission ordered rules 1 and 4 of the Board effective summarily in accordance with the provisions of section 19(b)(3)(B) of the Act. Under section 19(b)(3)(C) of the Act, the Commission may summarily abrogate the proposed rule changes within 60 days of the date of filing of the proposed rule changes (*i.e.*, December 9, 1975), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. Pending any such action by the Commission, the proposed rule changes remain in effect and are valid and enforceable rules of the Board to the extent indicated in section 19(b)(3)(C) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule changes.

Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection at the office of the abovementioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above. and should be submitted on or before November 21, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 15, 1975.

[FR Doc.75-28438 Filed 10-21-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1192]

MASSACHUSETTS

Declaration of Disaster Area

The City of Lowell in Middlesex County, Massachusetts, constitutes a disaster area because of damage resulting from an explosion caused by a natural gas main leak on September 27, 1975. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 12, 1975, and for economic injury until the close of business on July 12, 1976, at:

Small Business Administration, District Office, 150 Causeway Street—10th Floor, Boston, Massachusetts 02114.

or other locally announced locations.

Dated: October 10, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-28426 Filed 10-21-75;8:45 am]

[Declaration of Disaster Loan Area #1191]

RHODE ISLAND

Declaration of Disaster Area

As a result of the President's declaration I find that the City of Woonsocket in Providence County, Rhode Island, constitutes a disaster area because of damage resulting from fire on September 22, 1975. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 12, 1975, and for economic injury until the close of business on July 9, 1976, at:

Small Business Administration, District Office, 57 Eddy Street, Providence, Rhode Island.

or other locally announced locations.

Dated: October 9, 1975.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.75-28427 Filed 10-21-75;8:45 am]

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

GENERAL ADVISORY COMMITTEE ON ARMS CONTROL AND DISARMAMENT

Notice of Meeting

Notice is hereby given in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770, 5 U.S.C. App. I) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised) dated March 27, 1974, that a meeting of the General Advisory Committee on Arms Control and Disarmament is scheduled to be held on Thursday, November 13, 1975 from 8:30 a.m. to 6 p.m. and on Friday, November 14, 1975 from 8:30 a.m. to 5 p.m., at 2201 C Street, NW., Washington, D.C., in room 7516. The purpose of the meeting is for the Committee to receive classified briefings and hold classified discussions concerning continuing international negotiation and other arms control issues.

The meeting will be closed to the public. A determination has been made by the Director of the Arms Control and Disarmament Agency in accordance with section 10(d) of the Federal Advisory Committee Act and paragraph 8d(2) of Office of Management and Budget Circular No. A-63 (Revised) that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11769 dated February 21, 1974.

SIDNEY D. ANDERSON,
Advisory Committee Management Officer.

OCTOBER 15, 1975.

[FR Doc.75-28391 Filed 10-21-75;8:45 am]

DEPARTMENT OF JUSTICE

Office of the Attorney General

VOTING RIGHTS ACT AMENDMENTS OF 1975

Partial List of Determinations

Section 4(b) of the Voting Rights Act of 1965, 42 U.S.C. 1973 et seq., as amended by the Voting Rights Act Amendments of 1975 (Public Law 94-73) requires that the Director of the Census determine whether, in any State or any political subdivision of a State "less than 50 percentum of the citizens of voting age were registered on November 1, 1972, or that less than 50 percentum of such persons voted in the Presidential Election of November 1972." 42 U.S.C. 1973b(b). Section 4(b) requires the Attorney General to determine whether any State or political subdivision of a State "maintained on November 1, 1972, any test or device," 42 U.S.C. 1973b(b). For purposes of this determination test or device is defined as "any practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than 5 percentum of the citizens of voting age residing in such State or political subdivision are members of a single language minority." 42 U.S.C. 1973b(f)(3).

The Director of the Bureau of the Census and the Attorney General have made their respective determinations pursuant to Sections 4(b) and 4(f)(3) with regard to some States and political subdivisions. Those jurisdictions which to date have been determined to meet the requirements of Section 4(b) are listed in the following table. Determinations of coverage of additional jurisdictions under Section 4(b) will appear in later issues of the FEDERAL REGISTER.

Dated: October 20, 1975.

EDWARD H. LEVI,
Attorney General.

OCTOBER 21, 1975.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

STATES OR POLITICAL SUBDIVISIONS COVERED UNDER SECTION 4(b) OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED BY THE VOTING RIGHTS ACT AMENDMENTS OF 1975

Specified language minority	*State or political subdivision*
Native Alaskans...	Alaska, statewide.
American Indian...	Arizona: Apache County, Coconino County, Navajo County, and Pinal County. North Carolina: Jackson County.

[FR Doc.75-28650 Filed 10-21-75;10:36 am]

DEPARTMENT OF LABOR

Office of Employee Benefits Security

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Notice of Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1142) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 10:00 a.m. on Wednesday, November 5 and at 9:00 a.m. on Thursday, November 6, 1975, in the Federal Ballroom North, Quality Inn—Capitol Hill, 415 New Jersey Avenue, N.W., Washington, D.C.

The meeting will be open to the public. The purpose of the meeting is to discuss the items listed in the following agenda:

1. Announcement of Vice Chairman Position and Council Nomination and Selection
2. Recordkeeping Work Group Report
3. Investment Work Group Report
4. Prohibited Transactions Work Group Report
5. Fiduciary Responsibility—ERISA Interpretive Bulletin 75-8

6. Reporting and Disclosure
   a. Plan Description Form EBS–1
   b. Annual Report/Return
7. Non-covered Service; Company-wide and Building Trades Pension Plans
8. Recommendations for Establishment of Additional Work Groups
9. Agenda Suggestions for Future Meetings
10. Meeting Schedule—1976

Any member of the public may file a written statement concerning the topics under this agenda by submitting 30 copies on or before the close of business Monday, November 3, 1975 to James D. Hutchinson, Administrator of Pension and Welfare Benefit Programs, New Department of Labor Building, 200 Constitution Avenue, N.W., Room N4629, Washington, D.C. 20210.

Persons desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary of the Advisory Council, New Department of Labor Building, 200 Constitution Avenue, N.W., Room N4700, Washington, D.C. 20210, or may call Area Code 203/523/8753.

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

Signed at Washington, D.C. this 20th day of October, 1975.

[FR Doc.75-28617 Filed 10-21-75;8:45 am]

Occupational Safety and Health Administration

HAZARDS IN DIVING

Request for Information and Notice of Fact-Finding Hearing

On or about August 8, 1975, the United Brotherhood of Carpenters and Joiners of America, AFL–CIO, filed a petition, requesting the Occupational Safety and Health Administration (OSHA) to issue an Emergency Temporary Standard (ETS) for diving operations under section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(c)). The petition alleges that an ETS is necessary because employees in the diving industry are exposed to grave danger, and to new hazards due to increased diving operations at substantially lower depths.

OSHA requests information concerning diving operations in the United States, the hazards to which divers are exposed, and the methods of protection against such hazards, with particular attention to the following areas:

(1) the nature and number of companies which employ divers;

(2) the number of divers engaged in diving;

(3) the nature of hazards to which divers are exposed, at varying depths;

(4) statistics on the incidence, severity, and causes of injuries and illnesses to divers;

(5) work practices and procedures currently used, with an evaluation of the extent and consistency of their use and their effectiveness to protect against hazards;

(6) current programs or plans which may result during the next two years in significant increases in the number of diving operations or in the depths of such operations;

(7) whether any such increase would present new hazards to divers or would aggravate present hazards;

(8) whether divers are, or may be expected in the near future to be, exposed to grave danger from exposure to substances or agents which may be toxic or harmful, or from new hazards, and whether an emergency temporary standard is necessary to protect employees from any such danger;

(9) what provisions would be necessary in an emergency temporary standard, or a permannt standard, and the relative cost of compliance, with respect to:

a. Personnel qualifications;

b. Medical certification of diving personnel;

c. Diving procedures, including diving tables;

d. Diving equipment;

e. Air quality for human respiration;

(10) Existence and appropriateness of standards, specifications, or guidelines previously developed by governmental agencies and private organizations having expertise with regard to diving hazards, such as American National Standards Institute and the United States Navy and the history of their development and of their adoption by employers engaged in diving.

Such information may be submitted either in writing or at an informal fact-finding hearing to be held in the Commerce Department Auditorium, 14th and Constitution Avenue NW., Washington, D.C., on November 11, 1975. Beginning at 9:30 a.m. the presiding hearing officer will hold a pre-hearing conference in order to establish the order and time for presentations, and in order to settle any other matters relating to the proceedings. All persons intending to make presentations should attend the pre-hearing conference which will be open to the public. The public hearing will immediately follow the pre-hearing conference.

Persons desiring to appear at the hearing must file a written notice of intention to appear along with four duplicate copies with Ms. J. Goodell, OSHA Committee Management Office, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3633, Washington, D.C. 20210 (phone (202) 523–8024). If possible, notices should be filed before Thursday, November 6, 1975, in order to facilitate scheduling the appearances.

A notice should state the name and address of the person wishing to appear, the capacity in which he will appear, and the approximate amount of time required for the presentation. The notice should also include, or be accompanied by, a statement of the position to be taken and the evidence in support thereof.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and four copies of all documents to be used should be submitted at the hearing.

Persons who wish to submit data but who do not wish to attend the hearing may file such written data, along with four duplicate copies, with J. Goodell, at the above address by November 11, 1975. Such data will be submitted for inclusion in the hearing record.

The presiding hearing officer shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

(a) To regulate the course of the hearing;

(b) To dispose of procedural requests, objections, and comparable matters;

(c) To confine the presentations to matters pertinent to the requested information;

(d) To regulate the conduct of those present at the hearing by appropriate means;

(e) In his discretion, to question and permit questioning of any witness; and

(f) In his discretion, to keep the record open for a reasonable stated time to receive written data from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding hearing officer shall certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health. Thereafter, based upon the record, and any other relevant information, the Secretary will take appropriate action.

Signed at Washington, D.C., this 21st day of October 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-28651 Filed 10-21-75;10:42 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 891]

ASSIGNMENT OF HEARINGS

OCTOBER 17, 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 106920 Sub 58, Riggs Food Express, Inc., now being assigned December 15, 1975 (2 days), at New York, N.Y. in a hearing room to be designated later.

MC 139721, All World Travel, Inc., now being assigned December 17, 1975 (3 days), at Philadelphia, Pa., in a hearing room to be designated later.

MC 2253 Sub 71, Carolina Freight Carriers Corporation; MC 72442 Sub 47, Akers Motor Lines, Incorporated; MC 105881 Sub 50, M.R. & R. Trucking Company; MC 109533 Sub 67, Overnite Transportation Company and MC 113528 Sub 26, Mercury Freight Lines, Inc., continued to November 4, 1975 (3 weeks) in the Ramada Inn, 2121 W. Tennessee Street, Tallahassee, Florida.

MC-F-12343, National Machinery Haulers, Inc.—Purchase—Larry L. Fenner Transport, Inc. and MC 140504, National Machinery Haulers, Inc., now assigned November 4, 1975 at Chicago, Illinois; will be held in Room 1086A Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 61592 Sub 336, Jenkins Truck Line, Inc., now assigned November 6, 1975 at Chicago, Illinois; will be held in Room 1086A Everett McKinley Dirksen Building, 219 S. Dearborn St.

MC 111545 Sub 94, Home Transportation Company, Inc., now assigned November 10, 1975 at Chicago, Illinois; will be held in Room 1086A Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 114818 Sub 17, Motor Cargo, now assigned November 4, 1975 at Salt Lake City, Utah, will be held in *Tri-Arc Travelodge Motor Hotel, 161 West 6th South*, instead of *Room 202 Administration Building, 1745 West 1700 South*.

MC 41432 Sub 117, East Texas Mtr. Frt. Lines, Inc., now assigned November 3, 1975 at Atlanta, Georgia, will be held in the *Holiday Inn—Downtown, 175 Piedmont Avenue, N.E.*, instead of *Room 305 1252 W. Peachtree St. N.W.*

MC 33446 Sub 3, The Redifer Bus Company, A Corporation, now assigned November 12, 1975 at Cleveland, Ohio, is postponed indefinitely.

MC 29886 Sub 323, Dallas & Mavis Forwarding Co., Inc., MC 105045 Sub 58, R. L. Jefferies Trucking Co., Inc., MC 106644 Sub 208, Superior Trucking Co., Inc., MC 112304 Sub 93, Ace Doran Hauling & Rigging Company, MC 113495 Sub 69, Gregory Heavy Haulers, Inc., MC 113855 Sub 317, International Transport, Inc., MC 117557 Sub 20, Matson, Inc., MC 119777 Sub 319, Ligon Specialized Hauler, Inc., and MC 123048 Sub 319, Diamond Transportation System, Inc., now being assigned December 15, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 123407 Sub 234, Sawyer Transport, Inc., now assigned November 11, 1975 at Dallas, Texas, will be held in U.S. Tax Court Room, 330 U.S. Post Office & Courthouse Building, Bryan and Ervay Streets, instead of 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 U.S. Tax Court Room, 330 U.S. Post Office & Courthouse Building, Bryan and Ervay Streets, instead of Room 5A15-17 New Federal Building, 1100 Commerce Street.

MC-C-8749, C & H Transportation Co., Inc.—Investigation and Revocation of Certificates, now assigned November 13, 1975 at Dallas, Texas, will be held in U.S. Tax Court Room, 330 U.S. Post Office & Courthouse Building, Bryan and Ervay Streets, instead of Room 5A15-17 New Federal Building, 1100 Commerce St.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28480 Filed 10-21-75;8:45 am]

[Notice No. 38]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 17, 1975.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4 (c) (11).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c) (12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 26739 (Deviation No. 40); CROUCH FREIGHT SYSTEMS, INC., P.O. Box 1059, St. Joseph, Mo. 64502, filed October 9, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Omaha, Nebr., over U.S. Highway 75 to Topeka, Kans., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Omaha, Nebr., over U.S. Highway 275 to Glenwood, Iowa, thence over U.S. Highway 34 to Emerson, Iowa, thence over U.S. Highway 59 to Shenandoah, Iowa, thence over Iowa Highway 2 to Clarinda, Iowa, thence over U.S. Highway 71 to St. Joseph, Mo., thence over U.S. Highway 59 to junction Kansas Highway 4, thence over Kansas Highway 4 to junction U.S. Highway 75, thence over U.S. Highway 75 to Topeka, Kans., and return over the same route.

No. MC 111231 (Deviation No. 43), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, filed October 7, 1975. Carrier's representative: Kim D. Mann, 702 World Center Bldg., 918 Sixteenth St. NW., Washington, D.C. 20006. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Wichita, Kans., over Interstate Highway 35 to Oklahoma City, Okla., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Wichita, Kans., over U.S. Highway 54 to Augusta, Kans., thence over U.S. Highway 77 to Ponce City, Okla., thence over U.S. Highway 60 to Pawhuska, Okla., thence over Oklahoma Highway 11 to Tulsa, Okla., thence over U.S. Highway 66 to Oklahoma City, Okla., and return over the same route.

No. MC 111231 (Deviation No. 44), JONES TRUCK LINES, INC., 610 E. Emma Ave., Springdale, Ark. 72764, filed October 9, 1975. Carrier's representative: Kim D. Mann, 702 World Center Bldg., 918 Sixteenth St. NW., Washington, D.C. 20006. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Oklahoma City, Okla., over Interstate Highway 35 to junction Interstate Highway 35E, thence over Interstate Highway 35E to Dallas, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Oklahoma City, Okla., over U.S. Highway 62 to junction U.S. Highway 266, thence over U.S. Highway 266 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction U.S. Highway 75, thence over U.S. Highway 75 to Dallas, Tex., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28481 Filed 10-21-75;8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

[Notice No. 118]

OCTOBER 16, 1975.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR § 1131.3. These rules

provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 59367 (Sub-No. 100TA), filed October 6, 1975. Applicant: DECKER TRUCK LINE, INC., P.O. Box 915, Fort Dodge, Iowa 50501. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Belgium and Random Lake, Wis., to Joplin and Kansas City, Mo.; Topeka and Wichita, Kans.; and Lincoln, Nebr., and points in their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Leininger & Co., Inc., 6944 North Port Washington Road, Milwaukee, Wis. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 60012 (Sub-No. 95TA), filed October 3, 1975. Applicant: RIO GRANDE MOTOR WAY, INC., 1400 West 52nd Ave., Denver, Colo. 80221. Applicant's representative: John S. Walker, Jr., P.O. Box 5482, Denver, Colo. 80217. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods, as defined by the Commission, Classes A and B explosives, commodities in bulk and those requiring special equipment), serving the sites of Belina Coal Mine, Clear Creek Utah Coal Mine #2, and O'Connor Coal Mine, all located in Carbon County, Utah, near the town of Scofield; serving the Mine sites of the Valley Camp of Utah, Inc., located within a 10 mile radius of Scofield, Utah, as off-route points in connection with carrier's regular route operating authority, from the junction of U.S. Highway 6 and 50 and Utah Highway 96 approximately 6 miles south of Soldier Summit, Utah thence west on Utah Highway 96 to Scofield, Utah, applicant intends to interline with MC 60012, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Valley Camp of Utah, Inc., Box 507, Clear Creek, Utah, 84517. Emko Construction, Inc., Box 507, Clear Creek, Utah. 84517. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 1961 Stout St., 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 82063 (Sub-No. 63TA), filed October 3, 1975. Applicant: KLIPSCH HAULING CO., 119 E. Loughborough, St. Louis, Mo. 63111. Applicant's representative: Wallace R. Reed (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Phosphoric acid*, in bulk, in tank vehicles, from Nashville, Tenn., to points in Mississippi County, Ark.; Pontotoc County, Miss., and Chilton County, Ala.; (2) *Spent phosphoric acid*, in bulk, in tank vehicles, (1) from Obion County, Tenn., to points in Arkansas, Missouri, Alabama, Kentucky and Illinois; (2) from Mississippi County, Ark., to points in Missouri, Tennessee, Alabama, Kentucky, Illinois, and Arkansas, and (3) from Pontotoc County, Miss., to points in Arkansas, Missouri, Tennessee, Alabama and Kentucky, for 180 days. Supporting shipper: Trimet Chemical, Inc., 3255 Whitebrook Place, Memphis, Tenn. 38118. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, 210 N. 12th St., Room 1465, St. Louis, Mo. 63101.

No. MC 107496 (Sub-No. 1006TA), filed October 6, 1975. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: Earl Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Caustic soda*, in bulk, in tank vehicles, from St. Paul, Minn., to Colstrip, Mont., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vel-Tex Chemical, Inc., 1125 Childs Road, St. Paul, Minn. 55106. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 113908 (Sub-No. 351TA) (Correction), filed September 16, 1975, published in the FEDERAL REGISTER issue of September 30, 1975, and republished as corrected this issue. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foundry sand and foundry sand additive*, in bulk, from Granite City, Ill., to Albertville, Ala., and Chattanooga, Tenn.; (2) *Clay*, in bulk, from Belle Fourche, S. Dak., to Maumee, Cleveland, Columbus and Cincinnati, Ohio; Chattanooga, Tenn.; Louisville, Ky.; and Buffalo, N.Y., for 180 days. Supporting shipper: American Colloid Company, P.O. Box 228, Skokie, Ill. 60076. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106. The purpose of this republication is to correct the commodity description in part (2), which was omitted in the previous publication.

No. MC 134472 (Sub-No. 6TA), filed October 2, 1975. Applicant: RICHARD KUSTERMANN, doing business as KUSTERMANN TRUCK SERVICE, R.R. #2, Highland, Ill. 62249. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cocoa, chocolate milk powder, containers, fruit and fruit drink concentrates, bottled fruit drinks, flavored syrups, frozen fruits, nuts, frozen juice concentrates, canned fruits, corn sugar, frozen eggs, starch*, in containers, in vehicles equipped with mechanical refrigeration, between Bridgeton, Mo., on the one hand, and, on the other, points in Illinois for the account of Consolidated Fruit & Flavor Corp., Bridgeton, Mo.; (2) *Cheese*, in containers, in vehicles equipped with mechanical refrigeration, from Carthage, Mo., to Granite City, Ill., for the account of P.F.D. Supply Corporation, Granite City, Ill., under a continuing contract with Consolidated Fruit & Flavor Corp., and P.F.D. Supply Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Raymond Watson, Assistant Manager, P.F.D. Supply Corporation, 1800 Adams St., Granite City, Ill. 62040. Phillip Dressel, President, Consolidated Fruit & Flavor Corp., 264 Boulder Industrial Drive, Bridgeton, Mo. 63044. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 134599 (Sub-No. 135TA), filed September 30, 1975. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 748, Salt Lake City, Utah 84110. Applicant's representative: Richard A. Peterson, P.O. Box 81859, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and equipment* used in the manufacture of candy and confectioneries (except commodities requiring special equipment), from Sulphur Springs, Tex., to Ashley and Centralia, Ill., under a continuing contract

with Hollywood Brands, Division of Consolidated Foods Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hollywood Brands, Division of Consolidated Foods Corporation, 836 South Chestnut St., Centralia, Ill. 62801. Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Bldg., 125 South State St., Salt Lake City, Utah 84138.

No. MC 139005 (Sub-No. 2TA) (Correction), filed September 24, 1975, published in the FEDERAL REGISTER issue of October 14, 1975, and republished as corrected this issue. Applicant: JAMES D. HOELZEMAN, doing business as SCRAP HAULERS, 13840 S. Halsted St., Riverdale, Ill. 60627. Applicant's representative: Samuel Ruff, 2109 Broadway, E. Chicago, Ind. 46312. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities derived from waste, commodities having prior transportation as waste, waste products*, in tank vehicles, or vans, between points in Illinois, Indiana, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, for 180 days. Supporting shippers: Midwest Recycling Corp., Joseph A. Strosnik, President, 241 Brunswick, Hammond, Ind. Petro Tec Co., Werner J. Schrienger, President, 2810 4th St., St. Cloud, Minn. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604. The purpose of this republication is to correct the sub number.

No. MC 139196 (Sub-No. 9TA), filed October 2, 1975. Applicant: RAY WAGNER & SON TRUCKING CO., INC., Box 117, Owen, Wis. 54460. Applicant's representative: Ray Wagner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mink feed* (except in liquid in tank vehicles), from Abbotsford, Wis., to points in New York and Pennsylvania, for 180 days. Supporting shipper: Wisco Frozen Foods, Inc., Box 10, First St., Abbotsford, Wis. 55405. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 141119 (Sub-No. 2TA), filed October 1, 1975. Applicant: MERCHANTS 5 STAR, INC., P.O. Box 541, Marietta, Ohio 45750. Applicant's representative: John L. Alden, 1396 West Fifth Ave., Columbus, Ohio 43212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl core filters* to be used in water and sewage treatment facilities and commodities used in the installation and assembly of vinyl core filters (except commodities in bulk), between the facilities of the B. F. Goodrich Company, located at Marietta, Ohio, on the one hand, and, on the other, Ozark, Ark.; New Britton, Conn.; Jacksonville, Fla.; Litchfield, Ky.; Faribault, Minn.; Perryville and St. Joseph, Mo.; Williamson, N.C.; Union, N.J.; New Windsor, N.Y.; Lawton, Okla.; Ellwood City and Conway, Pa.; Greenville, S.C.; Cibolo Creek, Tex.; Colonial Beach, Va.; Dunbar and St. Albans, W. Va.; and Manitowoc, Wis., under a continuing contract with The B. F. Goodrich Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The B. F. Goodrich Company, 500 S. Main St., Akron, Ohio 44318. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28482 Filed 10-21-75;8:45 am]

[Notice No. 119]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 17, 1975.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR § 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the I.C.C. Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 106603 (Sub-No. 143TA), filed October 10, 1975. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain St. SW., P.O. Box 8088, Grand Rapids, Mich. 49508. 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 irregular routes, transporting: *Salt and salt products* (except in bulk), from the plantsite of the Diamond Crystal Salt Company at St. Clair, Mich., to points located in that part of Tennessee on and west of Tennessee State Highway 13, for 180 days. Supporting shipper: Diamond Crystal Salt Company, 916 South Riverside Ave., St. Clair, Mich. 48079. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 107162 (Sub-No. 39TA), filed August 22, 1975. Applicant: NOBLE GRAHAM TRANSPORT ,INC., R.R. #1, Brimley, Mich. 49715. Applicant's representative: John Duncan Varda, 121 S. Pinckney St., Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Palletized bin boxes and pallets*, from Hermansville and Menominee, Mich., to points in Wisconsin (except Green Bay, Manitowoc, Milwaukee, Racine, Kenosha and Sheboygan), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Menominee Box & Lumber Co. (a division of Whitewater, Inc.), 901 39th Ave., Menominee, Mich. 49858. Send protests to: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 108339 (Sub-No. 5TA), filed October 8, 1975. Applicant: MAUREEN Y. WELCH AND HENRY E. WELCH, doing business as YOUNG TRANSFER, Box 8226, Charlotte, N.C. 28208. Applicant's representative: Calvin F. Major, 200 West Grace St., Richmond, Va. 23220. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boxes, paper, cardboard*, knocked down or set up, from Charlotte, N.C., to points in Anderson, Blount, Campbell, Carter, Clairborne, Cocke, Grainger, Green, Hamblen, Hancock, Hawkins, Johnson, Jefferson, Knox, London, McMinn, Morgan, Monroe, Overton, Polk, Roane, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties, Tenn., under a continuing contract with Weyerhaeuser Company, for 180 days. Supporting shipper: Weyerhaeuser Company, 1 Plymouth Meeting Mall, Plymouth Meeting, Pa. 19462. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Road, Room CC516, Mart Office Bldg., Charlotte, N.C. 28205.

No. MC 139495 (Sub-No. 99TA), filed October 6, 1975. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise, materials, equipment, and supplies* (ex-

cept commodities in bulk, in tank vehicles) as are dealt in by manufacturers and distributors of home products, from the plantsite and storage facilities of Stanley Home Products, Inc., located at or near Easthampton, Mass., to Denver, Colo., Irving and San Antonio, Tex., Torrance, Calif., and Renton, Wash., restricted to traffic moving to distribution facilities of Stanley Home Products, for 180 days. Supporting shipper: Stanley Home Products, Inc., Easthampton, Mass. 01027. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 139495 (Sub-No. 100TA), filed October 6, 1975. Applicant: NATIONAL CARRIERS, INC., P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H St. NW., Suite 1030, Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, in bags, from Kosse, Tex., to points in Kansas, Colorado, Oklahoma and Missouri, for 180 days. Supporting shipper: Dresser Industries, Inc., P.O. Box 6540, Houston, Tex. 77005. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 140655 (Sub-No. 3TA), filed October 6, 1975. Applicant: EARL J. RUCKDASCHEL, doing business as EARL J. RUCKDASCHEL TRUCKING, 265 East Green St., Postville, Iowa 52162. Applicant's representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, Iowa 52001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation and equipment used in the installation thereof;* (2) *Scrap paper;* (1) From Postville, Iowa, to points in South Dakota; (2) from points in South Dakota, to Postville, Iowa, under a continuing contract with Iowa Excel Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Iowa Excel Corporation, P.O. Box 642, Postville, Iowa 52162. Send protests to: Hervert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 141263 (Sub-No. 1TA), filed October 2, 1975. Applicant: ARTEX ENTERPRISES, INCORPORATED, Suite 805, Charter Tower, Pensacola, Fla. 32502. Applicant's representative: H. Hamby Hutcheson (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sand, gravel, rock, coal, limestone, silica, concrete, concrete ingredients, concrete products, asphalt, asphalt ingredients, asphalt products, and any and all equipment* purchased or sold at auction or privately, used in the day to day operations, or in support of the operations of Artex Enterprises, Inc., and/or the companies contracted with under this authority to wit; *dredges loaders, generators, trucks, earthmovers, cranes, scales, plants, automobiles, conveyers, graders, bulldozers, related spare parts and tools*, between points in Alabama, Georgia and points in Florida on and north of State Highway 60, under a continuing contract or contracts with United Materials Corporation, South Alabama Sand and Gravel, Inc., and American Aggregate Associates, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: United Materials Corporation, Star Route 1, Atmore, Ala. South Alabama Sand and Gravel, Inc., Star Route 1, Atmore, Ala. American Aggregate Associates, Inc., Brewton, Ala. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 141326 (Sub-No. 1TA), filed October 7, 1975. Applicant: C. C. SALTER and C. W. SALTER, doing business as S & S TRUCKING COMPANY, P.O. Box 67, State Docks Road, Eufaula, Ala. 36027. Applicant's representative: John P. Carlton, 903 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tree bark, wood shavings, wood chips and wood sawdust*, from points in Barbour County, Ala., to Blountstown, Fla., and Vienna, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: M. C. Dixon Lumber Company, Eufaula, Ala. 36027. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 141326 (Sub-No. 2TA), filed October 7, 1975. Applicant: C. C. SALTER AND C. W. SALTER, doing business as S & S TRUCKING COMPANY, P.O. Box 67, State Docks Road, Eufaula, Ala. 36207. Applicant's representative: John P. Carlton, 903 Frank Nelson Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut plywood* from the plantsites, warehouses and storage facilities of Associated Forest Products, Inc., at or near Eufaula, Ala., on the one hand, to Fergus Falls, Minn.; Auburn, Nebr.; Atlanta, Ga.; Union City, Ind.; and Ft. Smith, Ark., on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Associated Forest Products, Inc., P.O. Box 613, 1251 State Docks Road, Eufaula, Ala. 36027. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Bldg., Birmingham, Ala. 35203.

No. MC 141380 (Sub-No. 1TA), filed October 2, 1975. Applicant: ANDRES VIERA AND ORPHA VIERA, doing business as LA GRAN VIA EXPRESS, 6474 NE. 2nd Ave., Miami, Fla. 33138. Applicant's representative: Richard B. Austin, 214 Palm Coast II Bldg., 5255 NW. 87th Ave., Miami, Fla. 33178. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, between points in Florida south of the northern boundaries of Brevard, Seminole, Lake, Polk, Hillsborough and Pinellas Counties, Fla., restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating or containerization or unpacking, uncrating, or decontainerization of such traffic, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shippers: (1) Las Rosas Del Monte Express, Inc., 1135 Tiffany St., Bronx, N.Y. 10459. (2) El Sol De America Express, Inc., 1301 Oak Point Ave., Bronx, N.Y. 10474. (3) La Grande Moving Shipping, Inc., P.O. Box 553, Bayamon, Puerto Rico 00619. Send protests to: Joseph B. Tiechert, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Monterey, Bldg., Suite 101, 8410 NW. 53rd Terrace, Miami, Fla. 33166.

No. MC 141383 TA filed October 3, 1975. Applicant: TRANSPHONIC, INC., 3724 N. Peck Road, El Monte, Calif. 91732. Applicant's representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, Calif. 90010. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Entertainers stage equipment* for performances on tour, *new and used, packaged or unpackaged, including sound equipment, musical instruments, lighting equipment, special effects, overhead projection equipment backdrops, stage props, stages, costumes, and advertising material*, between points in United States (except Alaska and Hawaii). Restriction: Carrier truck equipment, with driver, required to stay with the entertainers at all times to be used as storage facilities for the stage equipment, including advertising material, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: WAR, 18601 Hatteras, Apt. 11-G, Tarzana, Calif. 91356. BNB Associates, Ltd, 9454 Wilshire Blvd., Beverly Hills, Calif. 90212. Sugarloaf, 7417 Sunset Blvd., Hollywood, Calif. 90046. Jericho Custom Sound, Inc., 800 Debelius Ave., Baltimore, Md. 21205. James Gang, 3101 Euclid Ave., Apt. 203, Cleveland, Ohio 44115. Send protests to: Mildred I. Price, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 141384 TA filed October 6, 1975. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 Seventh Ave., South, Seattle, Wash. 98108. Seattle, Wash. 98108. Applicant's representative: James T. Johnson, 1610 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor

vehicle, over irregular routes, transporting: *Mobile kitchens food and foodstuffs, cooking utensils and food preparation and serving equipment*, between Seattle, Wash., and Forest Fire Sites in Oregon, California, Idaho, Montana, Wyoming, Colorado, Utah, Nevada, Arizona, and New Mexico, under a continuing contract with OK'S Company, a subsidiary of Kenners, Incorporated, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: OK'S Company, a subsidiary of Keeners, Incorporated, 2900 4th Ave., South, Seattle, Wash. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 195 Second Ave., Seattle, Wash. 98174.

No. MC 141385 TA filed October 6, 1975. Applicant: LARRY A. PENNER, doing business as, PENNER'S FEED & SUPPLY, Inman, Kans. 67546. Applicant's representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paints and coatings* (except in bulk), from the plantsites and warehouses of Steven Industries, Inc., at Bayonne, Jersey City, Ridgefield, and South River, N.J., and New York, N.Y., to points in California, Colorado, Missouri, Texas and Washington, restricted to Governmental Installations, under a continuing contract with Steven Industries, Inc., for 150 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Steven Industries, Inc., 39 Avenue C. Bayonne, N.J. 07002. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 141386 TA filed October 6, 1975. Applicant: IGNASZEWSKI TRUCKING, Easton, Minn. 56025. 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: *Animal feed ingredients* (except commodities in bulk), from Des Moines and Alden, Iowa, to Easton, Minn., for 180 days. Supporting shipper: Easton Farmers Elevator Co., Easton, Minn., 56025. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 141389 TA filed, October 7, 1975. Applicant: ARKANSAS WHITE EQUIPMENT COMPANY, 2109 W. Sunset, P.O. Box 89, Springdale, Ark. 72764. Applicant's representative: Michael H. Mashburn, 111 Holcomb St., P.O. Box 869, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled, repossessed, or replacement vehicles*, between Springdale, Ark., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: (1) Willis Shaw Frozen Express, Inc., Box 188, Elm Springs, Ark. 72728. (2) D. H. McJunkin Produce, Inc., P.O. Box 865, Springdale, Ark. 72764. (3) E. L. Reddish Transportation, Inc., P.O. Box 207, Springdale, Ark. 72764. (4) C. R. Kidd Produce, Inc., P.O. Box 364, Springdale, Ark. 72764. (5) L. E. Cawood Produce, P.O. Box 83, Springdale, Ark. 72764. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

APPLICATION OF PASSENGERS

No. MC 116248 (Sub-No. 7 TA), filed October 6, 1975. Applicant: TRI-STATE BUS LINES, INC., 301 North Fourth St., P.O. Box 947, Paducah, Ky. 42001. Applicant's representative: Billy J. Carroll (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, express and newspapers when transported on the same vehicle with passengers, special and charter operation beginning and ending at points served to points in the United States and return, between Paducah, Ky., and Elizabethtown, Ky., over U.S. 62 and return over the same route; between Elizabethtown, Ky., and Louisville, Ky., over Kentucky 61 and return over the same route; between St. Charles, Ky., over Kentucky 112 to Earlington, Ky., from Earlington, Ky., over Alternate U.S. 41 to Madisonville, Ky., and from Madisonville, Ky., over Alternate U.S. 41 to Nortonville, Ky., and return over the same route; from Paducah, Ky., to Louisville, Ky., over U.S. 62, Interstate 24, Western Kentucky Parkway and Interstate 65 and return over the same route; to serve all intermediate points in the aforementioned routes description, with restriction on handling any passenger from Louisville, Ky., to Elizabethtown, Ky., or return; charter and special operations beginning and ending over the aforementioned routes, to points in the United States and return (except Alaska and Hawaii), with the restriction of such operation being operated from the city of Louisville, Ky., and its suburban area and Ft. Knox, Ky. This authority is being tacked to the present authority of Tri-State Bus Lines held under MC-116348, and interline with other carriers at Paducah, Madisonville, Central City, Beaver Dam, Elizabethtown and Louisville, Ky., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 7 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Kenneth R. Inman, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 435 Federal Office Bldg., 167 North Main St., Memphis, Tenn. 38103.

By the Commission.

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

[FR Doc.75-28483 Filed 10-21-75;8:45 am]

[Notice No. 98]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

OCTOBER 21, 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 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before November 10, 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-76033. By order entered October 15, 1975 the Motor Carrier Board approved the transfer to Koby's Witch City Express, Inc., Danvers, Mass., of the operating rights set forth in Certificate No. MC-77267, issued March 11, 1953, to Stella C. Kobierski, doing business as Kobey's Express—Witch City Express, Danvers, Mass., authorizing the transportation of general commodities, with the usual exceptions, between Boston, Salem, Peabody, Marblehead, Swampscott, Lynn, Saugus, Revere, Chelsea, Everett, Somerville, Cambridge, and Beverly, Mass. Isaac Brager, 148 State St., Boston, Mass. 02109, attorney for applicants.

No. MC-FC-76055. By order entered October 16, 1975 the Motor Carrier Board approved the transfer to Venice Bus Lines, Inc., New Orleans, La., of the operating rights set forth in Certificate No. MC-29957 (Sub-No. 75), issued August 19, 1960, to Continental Southern Lines, Inc., Jackson, Miss., authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, between New Orleans, La., and Triumph, La.; and between Triumph, La., and Venice, La., over a specified route, serving all intermediate points. Michael G. Crow, Forty Five Hundred, One Shell Square, New Orleans, La. 70139, attorney for applicants.

No. MC–FC–76094. By order entered October 15, 1975 the Motor Carrier Board approved the transfer to Empire Stevedoring Co. Ltd., Montreal, Canada, of the operating rights set forth in Permit No. MC–138318, issued December 18, 1973, to Furness (Montreal) Limited, Montreal, Quebec, Canada, authorizing the transportation of wood pulp, from Woodland, Maine, to the port of entry on the United States-Canada Boundary line located at or near Calais, Maine, limited to a transportation service to be performed under a continuing contract, or contracts, with Georgia Pacific Corporation. Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, Mass. 02043, attorney for applicants.

No. MC–FC–76116. By order entered October 15, 1975 the Motor Carrier Board approved the transfer to The Tauro Brothers Trucking Co., a corporation, Girard, Ohio, of that portion of the operating rights set forth in Certificate No. MC–15589, issued December 23, 1974, to Mooney Bros. Trucking Co., a corporation, New Castle, Pa., authorizing the transportation of such bulk commodities, as are transported in dump trucks and transit mix equipment, between points in Lawrence, Mercer, Beaver, and Butler Counties, Pa.; and between points in Lawrence, Mercer, Beaver, and Butler Counties, Pa., on the one hand, and, on the other, points in Mahoning, Trumbull, and Columbiana Counties, Ohio. John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219, and Jerome Solomon, 3131 U.S. Steel Building, 600 Grant St., Pittsburgh, Pa. 15219, attorneys for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28484 Filed 10-21-75;8:45 am]

[Notice No. 99]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

OCTOBER 22, 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 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before November 11, 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–75996. By order of October 16, 1975, the Motor Carrier Board approved the transfer to Johnnie O. Roberson, doing business as Johnnie O. Roberson Truck Line, 300 Louise, Valley Falls, Kans. 66088, of Certificate No. MC 34327 issued by the Commission March 12, 1958, to Kenneth Reaser, Denison, Kans., authorizing the transportation of livestock, agricultural commodities, logs, and feed between Holton, Kans., on the one hand, and, on the other, Kansas City, Kans., and Kansas City, Mo.; livestock between St. Joseph, Mo., on the one hand, and, on the other, points in the Kansas territory specified above; agricultural implements and parts thereof between Holton, Kans., on the one hand, and, on the other, Kansas City, Kans., Kansas City, Mo., and Albert City, Iowa; feeds, agricultural commodities, farm implements, farm implement parts, logs, building material, and similar commodities between St. Joseph, Mo., and Holton, Mayetta, and Valley Falls, Kans., on the one hand, and, on the other, Denison, Kans.

No. MC–FC–76112. By order of October 17, 1975, the Motor Carrier Board approved the transfer to Hartwig Realty, Inc., Wausau, Wis., of that portion of the operating rights in Permit No. MC 126346 (Sub-No. 5) issued September 16, 1968, to Haupt Contract Carriers, Inc., Wausau, Wis., authorizing the transportation of fabricated metal products and related parts and accessories thereto, from the plant site of the Hartwig Manufacturing Corporation at or near Wausau, Wis., to points in Illinois, Indiana, and Michigan; and iron, steel, or aluminum articles used in the manufacture of fabricated metal products, from points in Illinois, Indiana, and Michigan to the plant site of the Hartwig Manufacturing Corporation at or near Wausau, Wis., under a continuing contract, or contracts, with Hartwig Manufacturing Corporation, Wausau, Wis. Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, Wis. 53705, Attorney for applicants.

No. MC–FC–76129. By order of October 17, 1975, the Motor Carrier Board approved the transfer to Tab Trucking, Inc., Spokane, Wash., of the operating rights in Permit No. MC 138136 (Sub-No. 1) issued March 1, 1974, to Merlin L. Black, doing business as Tab Trucking, Spokane, Wash., authorizing the transportation of wire fencing, from Georgetown, Conn., and Blue Island, Ill., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah, Wyoming, New Mexico, and Washington, and steel fence posts, from Blue Island, Ill., to points in these same states, under a continuing contract, or contracts, with Gilbert & Bennett Manufacturing Company, of Georgetown, Conn. Charles C. Flower, Suite 2, 303 East "D" Street, Yakima, Wash. 98901 Attorney for applicants.

No. MC–FC–76130. By order of October 17, 1975, the Motor Carrier Board approved the transfer to Active Transport, Inc., doing business as Active Trucking Service, South Gate, Calif., of the Certificate of Registration in No. MC 121764 issued September 22, 1975, to Edgar R. Cude, doing business as Active Trucking Service, Maywood, Calif., evidencing a right to engage in transportation in interstate or foreign commerce corresponding to the intrastate authority in certificate of public convenience and necessity granted by Decision No. 84114 dated February 19, 1975, issued by the Public Utilities Commission of California. LeRoy R. Davis, 9454 Wilshire Boulevard, Beverly Hills, Calif. 90212 Attorney for applicants.

No. MC–FC–76132. By order of October 17, 1975, the Motor Carrier Board approved the transfer to Triangle Transportation, Inc., Houston, Tex., of the Certificate of Registration in No. MC 133019 issued May 18, 1973, to Constructors Transport Company, a corporation, Dallas, Tex., evidencing the right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in certificate No. 20584 dated August 13, 1962, issued by the Railroad Commission of Texas. James W. Hightower, 136 Wynnewood Prof. Building, Dallas, Tex. 75224 Attorney for applicants.

No. MC–FC–76133. By order of October 17, 1975, the Motor Carrier Board approved the transfer to Scolly Trucking, Inc., Revere, Mass., of the Certificate of Registration in No. MC 98844 (Sub-No. 1) issued January 16, 1964, to Framingham-Boston Transit, Inc., Bellingham, Mass., evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in Irregular Route Common Carrier Certificate No. 1759 dated October 5, 1953, issued by the Massachusetts Department of Public Utilities. Frank J. Weiner, 15 Court Square, Boston, Mass. 02108 and Mary E. Kelley, 11 Riverside Avenue, Medford, Mass. 02155 Attorneys for applicants.

No. MC–FC–76134. By order of October 17, 1975, the Motor Carrier Board approved the transfer to Ford Truck Line, Inc., Tipton, Iowa, of the operating rights in Certificates Nos. MC 129222 and MC 129222 (Sub-No. 1) issued January 4, 1968, and August 10, 1972, respectively, to Marvin W. Ford, doing business as Ford Truck Line, Tipton, Iowa, authorizing the transportation of liquid fertilizer, in bulk, in tank vehicles, from Walcott, Iowa, to points in Illinois; and liquid fertilizer and liquid fertilizer ingredients, in bulk, from Walcott, Iowa, to points in Minnesota, Missouri (except points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone), and Wisconsin, and from Walcott, Iowa, to points in Illinois (except points in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone). James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309, Attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28485 Filed 10-21-75;8:45 am]

FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

OCTOBER 17, 1975.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 55942 (partial correction) filed September 17, 1975, published in the FEDERAL REGISTER issue of October 8, 1975, and republished as corrected this issue. Applicant: JOSEPH N. LEBOW, doing business as DESERT EMPIRE EXPRESS, 1931 East Vernon Ave., Los Angeles, Calif. 90058. Applicant's representative: Donald Murchison, 9454 Wilshire Blvd., Ste. 400, Beverly Hills, Calif. 90212. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *Commodities* requiring the use of special refrigerated or temperature control in specially designed and constructed equipment, 1. Between all points and places in the Los Angeles Basin Territory as described in Note A attached hereto. 2. Between the Los Angeles Basin Territory and all points and places on and within ten (10) miles laterally of the following highways: (a) State Highway 14 between San Fernando and Mojave, inclusive. (b) State Highway 58 between Keene and Barstow, inclusive. (3) Between the Los Angeles Basin Territory and the following points and places in the Counties of Los Angeles, Kern, or San Bernardino: Castaic, Pearblossom, Inyokern, China Lake, Ridgecrest, Westend, Argus, Trona, Johannesburg, Randsburg and Red Mountain. 4. Between the Los Angeles Basin Territory and Coachella serving all intermediate points on or within ten (10) miles laterally of the following highways: (a) Interstate Highway 10 from the eastern boundary of the Los Angeles Basin Territory to Coachella. (b) State Highway 111 from its intersection with Interstate Highway 10 near Whitewater to Coachella.

(5) Between the Los Angeles Basin Territory and the San Diego Territory, as described in Note B attached hereto, via U.S. Highway 101 (Interstate 5), California Highway 395, and California Highway 78, serving all intermediate points on, and all off-route points within ten (10) miles laterally of said highways: (6) Between the Los Angeles Basin Territory and Paso Robles and Cambria, serving all points and places on and within ten (10) miles laterally of U.S. Highway 101 and California Highway 1. (7) Between the Los Angeles Basin Territory and Bakersfield, serving all points and places on and within ten (10) miles laterally of Interstate Highway 5 and California Highway 99 serving the off-route points of Maricopa, Taft and Ford City. (8) Between the Los Angeles Basin Territory and Lucerne Valley, serving all points and places on and within ten (10) miles laterally of Interstate Highway 15 and California Highway 18. (9) Between the Los Angeles Basin Territory and Newberry, serving all points and places on and within ten (10) miles laterally of Interstate Highways 15 and 40. (10) Between the Los Angeles Basin Territory and Boron, serving all points and places on and within ten (10) miles laterally of Interstate Highway 15, U.S. Highway 395, and California Highway 58.

Joseph N. LeBow, an individual, doing business as Desert Empire Express, is authorized to use all available public highways between points to be served as hereinabove mentioned, and within the cities hereinabove to be served, and to use such streets and highways as may be necessary to serve consignors and consignees located within said cities.

NOTE A.—Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118; approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Los Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa, southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary to the City of San Jacinto; easterly, southerly, and westerly along said corporate boundary of San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along said cooporate boundary to the right of way of the Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary lines; westerly along said boundary line to the Orange County-San Diego County Boundary lines; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

NOTE B.—San Diego Territory includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways 101–E and 101–W (four miles north of La Jolla); thence easterly to Miramar on State Highway No. 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway No. 80; thence southeasterly to Jamul on State Highway No. 94; thence due south to the International Boundary Line; west to the Pacific Ocean and north along the coast to point of beginning.

NOTE.—The purpose of this correction is to indicate the correct area as described in Note A, Los Angeles Basin Territory; the rest remains the same. Intrastate, interstate, and foreign commerce authority sought.

HEARING: Date, time, and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif., and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[FR Doc.75-28487 Filed 10-21-75;8:45 am]

[No. MC-C-8734]

ROGERS TRANSFER, INC.

Petition for Declaratory Order Regarding Interpretation of Authority

Notice of filing of petition for a commission determination whether authority restricted to the transportation of shipments having an immediately prior movement by water or restricted to the transportation of shipments having a prior movement by water authorizes the transportation of shipments which have been removed from a water vessel and placed in storage. Petitioner: ROGERS TRANSFER, INC., Route 64, Great Meadows, N.J. 07838. Petitioner's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. By petition filed August 6, 1975, petitioner requests that the Commission determine if certificated authority held by petitioner, and restricted either, (1) to the transportation of shipments having an immediately prior movement by water, or (2) to the transportation of shipments having a prior movement by water authorizes the transportation of shipments which have been removed from a water borne vessel and prior to tender to petitioner are placed in storage.

Petitioner holds certificates of public convenience and necessity in No. MC 108884 (Sub-Nos. 17 and 25) which au-

thorize respectively, as pertinent, the transportation of frozen meat, in vehicles equipped with mechanical refrigeration, from Newark, N.J., and New York, N.Y., to points in Connecticut, Rhode Island, and Massachusetts, two named points in Maine, and a described portion of New Hampshire, restricted to the transportation of shipments having an immediately prior movement by water, and frozen imported meats, in vehicles equipped with mechanical refrigeration, from points within the Harbor area of New York, N.Y., as defined at 49 CFR 1070.1 (a), Philadelphia, Pa., and Wilmington, Del., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, restricted to the transportation of shipments having a prior movement by water. Pursuant to the above authority, petitioner asserts that it has transported the involved commodities from the involved piers and also from freezer warehouses. It states that if motor carrier equipment is unavailable to immediately handle a complete shipload, an unspecified portion of the cargo is first moved to freezer warehouses and then transported by petitioner to destination. Petitioner alludes to other situations where a full load may be assembled by split pickups at dockside and the freezer warehouse to fill a consignee's order.

Petitioner has received an informal opinion, based upon the principles enunciated by this Commission in *New England Transp. Co. Extension-Cement*, 88 M.C.C. 703 (1962), that the transportation of traffic from the freezer warehouses are not authorized by the above indicated authority. It believes the underlying record in its (Sub-No. 25) proceeding should be relied upon for an affirmative finding that its presently held authority does authorize the transportation services conducted from both the piers and freezer warehouses.

No oral hearing is contemplated at this time. Any interested party (including petitioner) desiring to participate in this proceeding may file with this Commission an original and fifteen (15) copies of its written representations, views, or arguments in support, or against, the relief sought in the petition (including any potential environmental effects thereof) on or before December 15, 1975. A copy of each such representation should be served upon petitioner's representative. Written material or suggestions submitted will be available for public inspection at the Offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of the notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-28488 Filed 10-21-75;8:45 am]

[Notice No. 83]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 17, 1975.

The following publications include motor carrier, water carrier, broker, freight forwarder, and rail proceedings indexed as follows: (1) grants of authority requiring republication prior to certification; (2) notices of filing of petitions for modification of existing authorities; (3) new operating right's applications directly related to and processed on a consolidated record with finance applications filed under Sections 5(2) and 212 (b); (4) notices of filing of Sections 5(2) and 210a(b) finance applications; and (5) notices of filing of Section 212(b) transfer applications.

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 in compliance with the requirements of 49 C.F.R. § 1100.250.

Protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice (unless otherwise specified). Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest should comply with section 247(d) or section 240(c), as appropriate, of the Commission's General 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 a detailed description of 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 (except for petitions and Finance Dockets under Rule 40 requiring the original and six (6) copies of the protest) shall be filed with the Commission, and a copy shall be served concurrently upon applicant's or petitioner's representative, or applicant or petitioner 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) or section 240(c)(4) of the special rules, and shall include the certification required therein.

No. MC 111625 (Sub-No. 19) (Republication), filed February 11, 1974, and published in the FEDERAL REGISTER issue of March 28, 1974, and republished this issue. Applicant: BERMAN'S MOTOR EXPRESS, INC. (IRS-Successor-In-Interest), P.O. Box 1566, Binghamton, N.Y. 13902. Applicant's representative: Norman Weiss, 2 West 45th Street, New York, N.Y. 10036. An Order of the Commission, Review Board Number 3, dated October 1, 1975, and served October 8, 1975, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, (1) of *toilet preparations* between Binghamton, N.Y., on the one hand, and, on the other, points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Centre, Clinton, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, Pa.; (2) (a) wine, from Hammondsport, N.Y., to points in Allegheny (except Pittsburgh), Armstrong, Beaver, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, Pa., (b) of *advertising materials*, from Hammondsport, N.Y., to points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, Pa., and (c) of *materials and supplies* used in the manufacture of wines (except in bulk), from points in the Counties specified in (2)(b) above to Hammondsport, N.Y.

(3) (a) Of *ladders*, from Bath, N.Y., to points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, Pa., (b) of *materials and supplies* used in the manufacture of ladders (except in bulk), from points in the Counties specified in (3)(a) above to Bath, N.Y. (c) of *ladders, scaffolds, footwalks, and planking*, from Newark Valley, N.Y., to points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, Pa., and (d) of *materials and supplies* used in the manufacture of ladders, scaffolds, footwalks, and planking (except in bulk), from points in the Counties specified in (3)(c) above to Newark Valley, N.Y.; (4)(a) of *lift trucks* used for material handling purposes from Greene, N.Y., to points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, Pa., and (b) of *materials and supplies* used in the manufacture of such lift trucks (except in bulk), from points in the Counties specified in (4)(a) above to Greene, N.Y.; (5)(a) of *pharmaceuticals and toilet preparations* from Norwich, N.Y., to points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Counties, Pa., and (b) of *materials and supplies* used in the manufacture of pharmaceuticals and toilet preparations (except in bulk), from points in the Counties specified in (5)(a) above to Norwich, N.Y.; (6) (a) of *furniture* from Berkshire, Cambria, Fayette, Greene, Indiana, Lawrence, Lycoming, Somerset, Washington, and Westmoreland Coun-

ties, Pa., and (b) of *materials and supplies* used in the manufacture of furniture (except in bulk), from points in the Counties specified in (6)(a) above to Berkshire, N.Y.

(7) (a) of *pillow blocks and railway journals*, from Hornell, N.Y., to points in Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Fayette, Greene, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, Pa., and (b) of *materials and supplies* used in the manufacture of pillow blocks and railway journals (except in bulk), from points in the Counties specified in (7)(a) above to Hornell, N.Y.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application, as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a Certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136211 (Sub-No. 29) (Republication), filed January 20, 1975, and published in the FEDERAL REGISTER issues of February 20, 1975, and August 13, 1975, and republished this issue. Applicant: MERCHANTS HOME DELIVERY SERVICE, INC., 210 St. Mary's Drive, Suite G, P.O. Box 5067, Oxnard, Calif. 93030. Applicant's representative: Joseph E. Rebman, 1230 Boatmen's Bank Bldg., 314 North Broadway, St. Louis, Mo. 63102. An Order of the Commission, Operating Rights Board, dated September 24, 1975, and served October 8, 1975, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) *new furniture, new home furnishings, appliances and recreational equipment*, from the facilities of the Levitz Furniture Corporation located at or near Calumet City, Rolling Meadows, and Hillside, Ill., to points in Wisconsin on, south, and east of a line beginning at Lake Michigan at Racine, Wis., and extending westerly along Wisconsin Highway 11 to junction Wisconsin Highway 67, thence south along Wisconsin Highway 67 to U.S. Highway 14, thence south along U.S. Highway 14 to the Wisconsin-Illinois State line; to points in Indiana on, and north of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 24 to Peru, Ind., thence along Indiana State Highway 124 to the Ohio State line; and to points in Michigan on and south of Interstate Highway 96; and (2) *returned shipments* of the commodities described in (1) above, from points in the destination territories indicated in (1) above, to the facilities of Levitz Furniture Corporation, specified in (1) above, under a continuing contract or contracts with Levitz Furniture Corporation; will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder.

The purpose of this republication is to indicate the enlargement of specified portions of Indiana and Michigan. Because it is possible that other parties who have relied upon the notice of the application, as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136445 (Sub-No. 3) (Republication), filed November 16, 1972, and published in the FEDERAL REGISTER issue of December 28, 1972, and republished this issue. Applicant: ZENITH TRANSPORT LTD., 2940 Alpha Avenue, Burnaby, 2, BC, Canada. Applicant's representative: George R. LaBissoniere, 1424 Washington Bldg., Seattle, Wash. 98101. An Order of the Commission, Division 1, Acting as an Appellate Division, dated October 2, 1975, and served October 10, 1975, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, (1) of *frozen foods and canned goods*, and (2) of *fresh fruits and vegetables* when moving with frozen foods or canned goods, from points in Oregon, Washington, and California to the Port of entry on the International Boundary line between the United States and Canada at or near Blaine, Wash., restricted to the transportation of traffic (1) having a subsequent movement in foreign commerce, and (2) destined to the storage and warehouse facilities of H. S. Blackwell, Ltd., York Farms, Ltd., and Woodward Stores (Vancouver, Ltd.), at Vancouver, British Columbia, Canada; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to eliminate the objectionable dual operations by granting applicant common carrier authority. Because it is possible that other parties who have relied upon the notice of the application, as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a Certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 135033 (Notice of filing of petition to add destination points), filed October 1, 1975. Petitioner: SILVEY REFRIGERATED CARRIERS, INC., Gifford Rd. & S. Omaha Bridge Rd., Council Bluffs, Iowa 51501. Petitioner's representative: Arlyn L. Westergren, Suite 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Petitioner holds a motor *contract carrier* permit in No. MC 135033, issued April 7, 1975, authorizing transportation, over irregular routes, of *Such commodities* as are dealt in by retail department stores (except foodstuffs), from points in Alabama, Connecticut, Kentucky (except Louisville and points in its commercial zone as defined by the Commission), Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Ohio (except Cincinnati, Cleveland, Columbus, and Toledo and points in their respective commercial zones as defined by the Commission), to Omaha, Nebr., restricted to the transportation of shipments destined to the facilities of J. L. Brandeis & Sons, Inc., Pamida, Inc., G. McNew, Division of McCrory Corporation, Brinn & Jensen Company, Westside Supply Company, and Richman Gordman Stores, Inc., all of Omaha, Nebr., under a continuing contract, or contracts with J. L. Brandeis & Sons, Inc., Pamida, Inc., G. McNew, Division of McCrory Corporation, Brinn & Jensen Company, Westside Supply Company, and Richman Gordman Stores, Inc., all of Omaha, Nebr. By the instant petition, petitioner seeks to add Columbus, Ohio, Urbana, Ill., and Stone Mountain, Ga., as destination points in the above described authority under a continuing contract or contracts with G. McNew, Division of McCrory Corporation. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 C.F.R. 1.240.)

MOTOR CARRIERS OF PROPERTY

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 29 (Sub-No. 6), filed August 18, 1975. Applicant: CONTINENTAL VAN

LINES, INC., 891 Broadway, Seaside, Calif. 93940. Applicant's representative: Martin J. Rosen, 140 Montgomery Street, San Francisco, Calif. 94104. 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 Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the District of Columbia. The purpose of this filing is to eliminate gateways at Denver, Greeley, and Trinidad, Colo.; Wichita, Kans.; Joplin, Mo.; Texarkana, Ark.; Texarkana, Tex.; Gary, Ind.; Chicago, Ill., and its Commercial Zone; Bartlesville, Okla.; Pittsburg, Kans.; Ponca City, Tulsa, and Altus, Okla.; Corwin, Kans.; Byron, Okla.; Hobart, Okla., and points within 20 miles thereof; Kiowa County, Okla.; Kiowa, Kans.; Muskogee, Okla.; Popular, Carthage, and Seneca, Mo.; Stillwater, Okla.; Mobile, Ala.; and Lawrence County and Glen Ellyn, Ill.

NOTE.—This is a gateway elimination request and is directly related to a Section 5 (2) proceeding in MC-E-12560 published in the FEDERAL REGISTER issue of July 2, 1975. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 1117 (Sub-No. 12), filed September 29, 1975. Applicant: M.G.M. TRANSPORT, CORP., 70 Maltese Drive, Totowa, N.J. 07512. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *New furniture*, From High Point, Thomasville, Lenoir, Mebane, Drexel, Morganton, and Marion, N.C., to points in that part of New Jersey on and north of New Jersey Highway 33 (except Trenton, N.J.), those in New York, and those in Fairfield County, Conn.; (2) *new furniture* uncrated, from High Point, Thomasville, Lenior, Mebane, Drexel, Morganton, and Marion, N.C., to those points in Massachusetts, Connecticut, Rhode Island, Vermont, and New Hampshire which are within 350 miles of Paterson, N.J., and (3) *new furniture*, crated as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except articles listed as store fixtures, and kitchen equipment in Appendices III and IV to the same report), from High Point, Thomasville, Lenoir, Mebane, Drexel, Morganton and Marion, N.C., to points in Connecticut, Rhode Island, and those in Berkshire, Hampshire, Hampden, and Franklin Counties, Mass. The purpose of this filing is to eliminate a gateway at Philadelphia, Pa.

NOTE.—This is a gateway elimination request and is directly related to a Section 5(2) proceeding in MC-F-12647 which appears below. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 95876 (Sub-No. 179), filed August 25, 1975. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, when moving as contractors' and construction equipment and materials, from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Iowa and Wisconsin. The purpose of this filing is to eliminate the gateway of points in Minnesota.

(2) *Lumber*, when moving as contractors' and construction equipment and materials and as building and roofing slabs, tile and panels, (a) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Iowa on and east of Interstate Highway 35; and (b) from points in Bonner and Kootenai Counties, Idaho, and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Colorado, Kansas, Missouri, Montana, Nebraska, North Dakota, Wyoming and points in Iowa west of Interstate Highway 35. The purpose of this filing is to eliminate the gateway of points in Minnesota and Cornell, Wis.

(3) *Lumber*, when moving as wood shavings, in bales, bags and by-products thereof, in bundles, bales and bags, (a) from points in Bonner and Kootenai Counties, Idaho and points in Pend Oreille, Stevens and Spokane, Counties, Wash., to points in Wisconsin, Illinois, Indiana, Iowa, Michigan, Missouri, points in Kansas on and east of U.S. Highway 81, points in Nebraska on and east of U.S. Highway 81 and points in North Dakota on and east of North Dakota Highway 32 south from the Canadian border to its junction with North Dakota Highway 45, thence along North Dakota Highway 45 to its junction with North Dakota Highway 1, thence along North Dakota Highway 1 to the South Dakota State Boundary line; and (b) from points in Bonner and Kootenai Counties, Idaho and points in Pend Oreille, Stevens and Spokane Counties, Wash., to points in Kansas, Nebraska and North Dakota west of the above described lines. The purpose of this filing is to eliminate the gateway of points in Otter Tail County, Minn.

(4) *Lumber*, when moving as contractors' and construction equipment and materials and as millwork, (a) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Iowa on and east of Interstate Highway 35, points in Illinois, points in Missouri on and east of U.S. Highway 65 and points in Wisconsin; and (b) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Iowa west of the above described area, Kansas, Nebraska and points in Missouri west of the above described area. The purpose of this filing is to eliminate the gateways of points in Minnesota and Birchwood, Wis.

(5) *Lumber*, when moving as contractors' and construction equipment and materials and as plywood, veneer, wood paneling, hardboard, wallboard or wood particle board and materials, (a) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Iowa on and east of U.S. Highway 218 from the Iowa-Minnesota State Boundary line, south to junction with Iowa Highway 58 near Waterloo, thence easterly along Iowa Highway 58 to junction with U.S. Highway 63, thence southerly along Iowa Highway 63 to the Iowa-Missouri State Boundary line; and (b) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Wyoming and points in Iowa west of the above described area. The purpose of this filing is to eliminate the gateways of points in Minnesota and Phillips, Wis.

(6) *Lumber*, when moving as wood fencing, wood posts, wood rails and accessories, (a) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Iowa on and east of U.S. Highway 71, points in Missouri on and east and south of U.S. Highway 71 from the Iowa-Missouri State Boundary line to the Iowa-Nebraska State Boundary line at St. Joseph, Mo., points in Arkansas, Louisiana and points east of the Mississippi River; and (b) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Iowa west of the above described area, points in Missouri west of the above described area, points in North Dakota, Kansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming and Montana. The purpose of this filing is to eliminate the gateway of Bemidji, Minn.

(7) *Lumber*, when moving as contractors' and construction equipment and materials and as built-up wood, doors, sash and woodwork, from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Illinois, Upper Peninsula of Michigan, and points in Indiana on and west of U.S. Highway 31 and on and north of U.S. Highway 24. The purpose of this filing is to eliminate the gateways of points in Minnesota and New London, Wis.

(8) *Lumber*, when moving as contractors' and construction equipment and materials and as building materials, from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in the Chicago, Ill. Commercial Zone as defined by the Commission. The purpose of this filing is to eliminate the gateways of points in Minnesota and New London, Wis.

(9) *Lumber*, when moving as contractors or construction equipment and materials, from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Illinois on and north of U.S. Highawy 36. The purpose of this filing is to eliminate the gateways of points in Minnesota and New London, Wis.

(10) *Lumber*, when moving as contractors' and construction equipment and materials and as poles and piling, (a) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Illinois, Indiana, Iowa on and east of Interstate Highway 35, Kentucky, Michigan, Missouri on and east of U.S. Highway 69 beginning at the Iowa-Missouri State Boundary line, thence southerly along U.S. Highway 69 to its junction with Missouri Highway 13, thence southerly along U.S. Highway 13 to junction with U.S. Highway 65, thence southerly along U.S. Highway 65 to the Arkansas-Missouri State Boundary line and New York, Ohio and Pennsylvania; and (b) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Kansas, Nebraska, North Dakota and points in Iowa and Missouri west of the above described area. The purpose of this filing is to eliminate the gateways of points in Minnesota and Superior, Wis.

(11) *Lumber*, when moving as contractors' and construction equipment and materials and as building materials (except clay and refractory products, stone, flyash and commodities in bulk), from points in Bonner and Kootenai Counties, Idaho and points in Pend Oreille, Spokane and Stevens Counties, Wash., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut and points in New York on and north of New York Highway 23 beginning at the New York-Massachusetts State Boundary line, thence west along New York Highway 23 through Catskill, Stamford and Oneonta to Norwich, New York, thence north along New York Highway 12 through Sherburne, Utica and Watertown, N.Y. to the junction of New York State Boundary line at Clayton, N.Y. The purpose of this filing is to eliminate the gateways of points in Minnesota, Superior, Wis. and Alliance, Ohio.

(12) *Lumber*, when moving as wall board, pulpboard and insulation, (a) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Arkansas, Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Vermont, Virginia, West Virginia and the District of Columbia; and (b) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Cloquet, Minn.

(13) *Lumber*, when moving as contractors' and construction equipment and materials and as building and roofing slabs, tile and panels, from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in Minnesota and Cornell, Wis.

(14) *Lumber*, when moving as equipment, materials and supplies used in the quarrying, fabricating and installation of granite, marble, slate and stone, (a) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Nebraska on and east of U.S. Highway 281, points in Kansas on and east of U.S. Highway 281, points in Oklahoma on and east of U.S. Highway 281 from the Kansas-Oklahoma State Boundary line, southerly along Oklahoma Highway 281 to its intersection with U.S. Highway 64, thence westerly along Oklahoma Highway 6 to its intersection with Oklahoma Highway 34, thence south on Oklahoma Highway 34 to its intersection with U.S. Highway 283 near Willow, thence southerly along Oklahoma Highway 283 to the Oklahoma-Texas State Boundary line, points in Texas, on, east and south of U.S. Highway 283 from the Oklahoma-Texas State Boundary line, southerly to intersection with U.S. Highway 87, thence southerly along Texas Highway 87 to intersection with U.S. Highway 377, thence southerly along Texas Highway 377 to the International Boundary line between Texas and the Republic of Mexico, and points in States east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas; and (b) from points in Bonner and Kootenai Counties, Idaho and Pend Oreille, Spokane and Stevens Counties, Wash., to points in Nebraska, Kansas, Oklahoma and Texas west of the above described area, points in North Dakota and all points in the states west of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of points in Minnesota.

(15) *Lumber*, when moving as contractors' and construction equipment and materials, from points in Sanders, Mineral, Missoula, and Ravalli Counties, Mont., to points in Minnesota. The purpose of this filing is to eliminate the gateway of points in South Dakota.

(16) *Lumber*, when moving as contractors' and construction equipment and materials, (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Minnesota on, south and east of U.S. Highway 2 from East Grand Forks to the junction with U.S. Highway 59, thence along U.S. Highway 59 north to the junction with Minnesota Highway 32, thence along Minnesota Highway 32 to its junction with Minnesota Highway 11, thence along Minnesota Highway 11 to its junction with Minnesota Highway 89, thence along Minnesota Highway 89 to the Canadian border; and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Minnesota north and west of the above described area. The purpose of this filing is to eliminate the gateways of points in South Dakota.

(17) *Lumber*, when moving as contractors' and construction equipment and materials, from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Iowa and Wisconsin. The purpose of this filing is to eliminate the gateways of points in South Dakota and Minnesota.

(18) *Lumber*, when moving as contractors' and construction equipment and materials, and as building and roofing, slabs, tile and panels and related materials, parts, supplies and accessories, (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Iowa on and east of U.S. Highway 63 and points in Missouri on and east of U.S. Highway 63; and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Iowa and Missouri that are west of the above described areas and points in Colorado, Kansas, Montana, Nebraska, North Dakota and Wyoming. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota and Cornell, Wis.

(19) *Lumber*, when moving as wood shavings in bales and bags and by-products thereof in bundles, bales and bags, (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Illinois, Iowa, Indiana, Missouri, Michigan, Wisconsin, points in Kansas on and east of U.S. Highway 77, points in Nebraska on and east of U.S. Highway 77 and Fargo, N. Dak., and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Kansas and Nebraska west of the above described area and all points in North Dakota (except Fargo, N. Dak.). The purpose of this filing is to eliminate the gateways of South Dakota and Otter Tail County, Minn.

(20) *Lumber and millwork* when moving as contractors' and construction equipment and materials: (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Illinois, Wisconsin, points in Minnesota on, south and east of State Highway 48 from the Wisconsin border to the junction with Interstate Highway 35 near Hinckley, thence Interstate Highway 35 to the Iowa border, points in Iowa on and east of Interstate Highway 35 from the Minnesota border to Des Moines, thence U.S. Highway 65 to the Missouri border, points in Missouri on and east of State Highway 5, and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to

points in Minnesota, Iowa and Missouri that are west of the above described areas and points in Kansas and Nebraska. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota and Birchwood, Wis.

(21) *Lumber*, when moving as contractors' and construction equipment and materials and as plywood, veneer, wood paneling, hardboard, wallboard and particleboard, and *materials, supplies and accessories* used in connection therewith, (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Minnesota on and east of U.S. Highway 63 beginning at Lake City to the Iowa State Boundary line near Chester, Iowa, and points in Iowa on and east of U.S. Highway 63 from the Minnesota State Boundary line to Waterloo, thence along U.S. Highway 218 to the Missouri State Boundary line near Keokuk, Iowa; and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in that part of Iowa and Minnesota that are west of the above described areas and points in Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota and Wyoming. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota and Phillips, Wis.

(22) *Lumber*, when moving as contractors' and construction equipment and materials and as wood fencing, wood posts, wood rails and *accessories used* in the installation of the above-mentioned commodities; (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Iowa on and east of Interstate Highway 35 from the Minnesota State Boundary line to Des Moines, Iowa, thence along U.S. Highway 65 to the Missouri State Boundary line, points in Missouri on and east of Missouri Highway 5, points in Arkansas on, south and east of Arkansas Highway 5 from the Missouri State Boundary line to intersection with U.S. Highway 62, thence west along Arkansas Highway 62 to intersection with U.S. Highway 65 near Bellefonte, thence along Arkansas Highway 65 to Little Rock, thence U.S. Highway 167 to the Louisiana State Boundary Line points in Louisiana on and east of U.S. Highway 167 from the Arkansas State Boundary line to intersection with Louisiana Highway 333, thence along Louisiana Highway 333 to the Gulf of Mexico, points in Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, New York, Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New Jersey, Maryland, Delaware, District of Columbia, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi and Florida; and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Iowa, Missouri, Arkansas, and Louisiana that are west of the above described areas and points in North Dakota, Nebraska, Kansas, Oklahoma, Texas, New Mexico, Colorado, Wyoming and Montana. The purpose of this filing is to eliminate the gateways of points in South Dakota and Beltrami County, Minn.

(23) *Lumber*, when moving as contractors' and construction equipment and materials and as built-up wood, doors, sash and woodwork; (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Illinois, Indiana on and west of U.S. Highway 31 and on north of U.S. Highway 24, and points in the Upper Peninsula of Michigan on and east of U.S. Highway 45 from the Wisconsin State Boundary line to its intersection with State Highway 26 near Greenland, thence along Michigan Highway 26 to its intersection with U.S. Highway 41 near Hancock, thence along Michigan Highway 41 to its intersection with Michigan Highway 26, thence along Michigan Highway 26 to Cooper Harbor; and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Michigan, west of the above described area and points in Minnesota. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota and New London, Wis.

(24) *Lumber*, when moving as contractors' and construction equipment and materials and as building materials; from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in the Chicago, Ill. Commercial Zone as defined by the Commission. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota and New London, Wis.

(25) *Lumber and shingles*, when moving as contractors' and construction equipment and materials, from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravelli and Sanders Counties, Mont., to points in Illinois on and north of U.S. Highway 36. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota and New London, Wis.

(26) *Lumber, poles and pilings* when moving as contractors' and construction equipment and materials, (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Michigan, New York, points in Iowa on and east of U.S. Highway 218 from the Minnesota State Boundary line to Waterloo, thence along Iowa Highway 21 to intersection with Iowa Highway 92, thence along Iowa Highway 92 to its intersection with Iowa Highway 149, thence along Iowa Highway 149 southerly to its intersection with U.S. Highway 63, thence along Iowa Highway 63 to its intersection with Iowa Highway 2, thence along Iowa Highway 2 to its intersection with Iowa Highway 15, thence along Iowa Highway 15 to the Missouri State Boundary line, points in Minnesota on and east of Minnesota Highway 15 from the Iowa State Boundary line southerly to its intersection with U.S. Highway 54, thence along Minnesota Highway 54 to its intersection with U.S. Highway 63, thence along U.S. Highway 63 to the Arkansas State Boundary line, and points in Minnesota on and east of U.S. Highway 53 from International Falls southerly to its intersection with Minnesota Highway 73, thence along Minnesota Highway 73 to its intersection with U.S. Highway 61, thence along Minnesota Highway 61 to its intersection with Minnesota Highway 23, thence along Minnesota Highway 23 to its intersection with Minnesota Highway 65, thence along Minnesota Highway 65 to intersection with Interstate Highway 35, thence along Interstate Highway 35 to its intersection with U.S. Highway 218, thence along Minnesota Highway 218 to the Iowa State Boundary line; and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Minnesota, Missouri and Iowa west of the above described area and points in Kansas, Nebraska and North Dakota. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota and Superior, Wis.

(27) *Lumber*, when moving as contractors' and construction equipment and materials and as building materials (except clay and refractory products, stone, flyash and commodities in bulk), from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut and points in that part of New York on and north of a line beginning at the Massachusetts State Boundary line near Hillside, N.Y. and extending westerly along New York Highway 23 through Catskill, Stamford and Oneonta to Norwich, N.Y., thence northerly along New York Highway 12 through Sherburne, Utica, and Watertown, N.Y., to intersection of New York State Boundary line at Clayton, N.Y. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota, Superior, Wis., and Alliance, Ohio.

(28) *Lumber*, when moving as contractors' and construction equipment and materials and as wallboard, pulpboard and hardboard, (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, Vermont, Virginia, West Virginia and the District of Columbia and points in Arkansas on and east of U.S. Highway 63 from the Missouri State Boundary line to its intersection with U.S. Highway 167 near Hardy, thence along Arkansas Highway 167 to the Louisiana State Boundary line; and (b) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties, Mont., to points in Arkansas west of the above described area and points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateways of points in South Dakota and Cloquet, Minn.

(29) *Lumber*, when moving as contractors' and construction equipment and

materials and as building roofing slabs, tile and panels and related materials, parts, supplies and accessories, from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont and the District of Columbia. The purpose of this filing is to eliminate the gateways of points in South Dakota, Minnesota and Cornell, Wis.

(30) *Lumber*, when moving as equipment, materials and supplies used in the quarrying, fabricating, manufacturing and installation of granite, marble, slate and stone (except commodities which because of size or weight require the special equipment and commodities in bulk), (a) from points in Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, District of Columbia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, Kentucky, West Virginia, Ohio, Indiana, Michigan, Illinois, Louisiana, Arkansas, Missouri, Iowa, Nebraska points on and east of U.S. Highway 281, Kansas points on and east of U.S. Highway 281, points in Oklahoma on and east of U.S. Highway 281 from the Kansas State Boundary line to its intersection with U.S. Highway 183, thence along Oklahoma Highway 183, to its intersection with Interstate Highway 40, thence westerly along Interstate Highway 40 to intersection with Oklahoma Highway 44, thence southerly along Oklahoma Highway 44 to intersection with U.S. Highway 283, thence along Oklahoma Highway 283 to the Texas State Boundary line, points in Texas on and east of U.S. Highway 283 from the Oklahoma State Boundary line intersection with U.S. Highway 87, thence along Texas Highway 87 to intersection with U.S. Highway 377, thence along Highway 377 to the intersection with Texas Highway 27, and Interstate Highway 10, thence along Texas Highway 27, and Interstate Highway 10, to intersection with Texas Highway 16, thence along Texas Highway 16 to the International Boundary line between Texas and the Republic of Mexico and; (b) from points in Flathead, Lake Lincoln, Mineral, Missoula, Ravalli and Sanders Counties, Mont., to points in Texas, Oklahoma, Kansas, Nebraska west of the above described areas and points in North Dakota, Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon and Washington. The purpose of this filing is to eliminate the gateway of points in Codington County, S. Dak.

NOTE.—Common control may be involved. This is a gateway elimination request and is a matter directly related to a Section 5(2) proceeding in MC-F-2623, published in the FEDERAL REGISTER issue of September 10, 1975. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 112713 (Sub-No. 186), filed September 3, 1975. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, Kans. 66207. Applicant's representative: David B. Schneider (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 those requiring special equipment), between points in Lancaster County, Pa. on the one hand, and, on the other, points in Suffolk County, N.Y. The purpose of this filing is to eliminate a gateway at points in Essex County, N.J.

NOTE.—This is a gateway elimination request and is directly related to a Section 5(2) proceeding in MC-F-12626 published in the FEDERAL REGISTER issue of September 17, 1975. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 139809 (Sub-No. 8), filed September 8, 1975. Applicant: FORBES REFRIGERATED TRANSPORT, INC., 2001 Charleston Road, Wilson, N.C. 27893. Applicant's representative: David H. Permar, 327 Hillsborough Street, P.O. Box 527, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Solid refrigerated products*, including commodities of a perishable nature such as fresh fish, meats, meat products, fruits, vegetables, dairy products, and other commodities which require refrigeration while in transit and the use of vehicles with temperature controls; and (2) *commodities* requiring refrigerated temperature control (except liquid commodities, in bulk, in tank vehicles, or in containers exceeding 100 gallon capacity), between points in North Carolina. Note: Applicant states that it intends to tack the requested authority with its existing authority in (1) the lead certificate at Wilson, N.C. to provide a through service (a) from points in North Carolina, to points in Maryland, Delaware, Pennsylvania, New Jersey and New York; (b) from points in North Carolina, to points in West Virginia; and at Kinston, N.C. to provide a through service from (a) points in North Caroline, to points in Connecticut, Maryland, New Jersey, New York, Pennsylvania; and (b) from points in Connecticut, Maryland, New Jersey, New York, and Pennsylvania, to points in North Carolina; and at Raleigh, Fayetteville and Goldsboro, N.C., to provide a through service from points in the New York, N.Y. Commercial Zones as defined in the Fifth Supplemental Report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 541, within which local operations may be conducted, to points in North Carolina; and (2) in Sub-No. 7, at Wilson, N.C., to provide a through service from points in North Carolina, to points in Massachusetts and Virginia. The purpose of this application is to convert a Certificate of Registration applicant seeks to acquire, to a Certificate of Public Convenience and Necessity.

NOTE.—This is a matter directly related to a Section 5(2) proceeding in MC-F-12634 published in the FEDERAL REGISTER issue of September 24, 1975. If a hearing is deemed necessary, the applicant requests it be held at either Raleigh, N.C., Richmond, Va., or Washington, D.C.

No. MC-F-12557. (Amendment) (TRANSCON LINES — PURCHASE (PORTION) — CENTRAL MOTOR LINES, INC., NORTHERN FREIGHT LINES, INC., and AKERS MOTOR LINES, INCORPORATED), published in the July 2, 1975, issue of the FEDERAL REGISTER. A supplement to the agreement between CENTRAL MOTOR LINES (CENTRAL), NORTHERN FREIGHT LINES, INC. (NORTHERN), TRANSCON LINES (TRANSCON), AKERS MOTOR LINES, INC. (AKERS-N.C.) and AKERS MOTOR LINES, INC. (AKER-DEL). The parties agreed to substitute additional operating authorities of CENTRAL in lieu of the operating authorities of AKERS-N.C. as more specifically described below: Between Monroe, N.C., and Chester, S.C., serving all intermediate points, and the off-route points of Waxhaw and Mineral Springs, N.C., and Great Falls, S.C., between Lancaster, S.C., and Charleston, S.C., serving no intermediate points, between Rock Hill, S.C., and Columbia, S.C., serving no intermediate points, between Pageland, S.C., and Darlington, S.C., serving no intermediate points, and serving Darlington for purposes of joinder only, between Chester, S.C., and North Augusta, S.C., serving no intermediate points, between Wallace, S.C., and Florence, S.C., serving no intermediate points, with restriction, between points in South Carolina, with restriction, between Asheboro, N.C. and Wallace, S.C., in connection with otherwise authorized regular route operations between Greensboro, N.C., and Florence, S.C., serving no intermediate points, between Monroe, N.C., and Pageland, S.C., in connection with otherwise authorized regular route operations between Charlotte, N.C., and Florence, S.C., serving no intermediate points. The supplement to the agreement provided further that in the event the substituted additional operating authorities of Central are not authorized to be transferred by the Interstate Commerce Commission, then the originally designated operating authorities of AKERS-N.C. are to be transferred upon appropriate approval by the Commission. (See F.R. publication of 7/2/75). Hearing: Set for December 2, 1975, (9 days), at 9:30 a.m. local time at Charlotte, N.C., in a hearing room to be later designated.

No. MC-F-12647. Authority sought for purchase by M. G. M. TRANSPORT CORPORATION, 70 Maltese Drive, Totowa, N.J. 07512, of a portion of the operating rights of DeHART MOTOR LINES, INC., N.C. CORPORATION (a Bankrupt), U.S. Highway 64—70 East, P.O. Box 368, Conover, N.C. 28613, and for acquistion by MICHAEL MASSOOD,

and GEORGE MASSOOD, also of Totowa, N.J. 07512, of control of such rights through the purchase. Applicant's attorneys: Kenneth Thomas, 343 2nd St., N.W., Hickory, N.C. 28601, and Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Operating rights sought to be transferred: *New furniture*, as a *common carrier* over irregular routes, from High Point, Thomasville, and Lenoir, N.C., to Richmond, Va., Wilmington, Del., Baltimore, Md., Philadelphia, Pa., and Washington, D.C.; from Mebane, Drexel, Morganton, and Marion, N.C., to Richmond, Va., Baltimore, Md., Wilmington, Del., Philadelphia, Pa., and points in the Washington, D.C. Commercial Zone as defined by the Commission in 3 M.C.C. 243. Vendee is authorized to operate as a *common carrier* in North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-12649. Authority sought for purchase by BUDIG TRUCKING CO., 1100 Gest Street, Cincinnati, OH., 45203, of the operating rights and property of WESTERN TRUCKING COMPANY, 4560 N. Second Avenue, St. Louis, MO., 63147, and for acquisition by OTTO M. BUDIG, Sr., OTTO M. BUDIG, Jr., and GEORGE J. BUDIG, all of Cincinnati, OH., 45203, of control of such rights through the purchase. Applicants' attorneys: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, OH 45202, and David Axelrod, 39 South LaSalle St., Chicago, IL., 60603. Operating rights sought to be transferred: *General commodities*, with exception as a *common carrier* over regular routes between St. Louis, Mo., and Cincinnati, Ohio, and Louisville, Ky., between Louisville, Ky., and Cincinnati, Ohio, and Seymour, Ind., services is authorized to and from East Alton, Ill., as an off-route point in connection with said carrier's regular route operations between St. Louis, Mo., on the one hand and Louisville, Ky., and Cincinnati, Ohio on the other, serving Buckner, Ky., as an off-route point in connection with carrier's authorized regular route operations to and from Louisville, KY., *Roofing* as a *common carrier* over irregular routes from points and places in the above-specified St. Louis, Mo.—East St. Louis, Ill., Commercial Zone, Robertson, Mo., the site of the Ford Motor Company plant, near Robertson, the site of Lambert Airfield, and Ferguson, Mo., to Franklin, Ohio, *Petroleum products*, from Wood River and Roxana, Ill., to Cincinnati, Ohio, and points in that part of Ohio within 125 miles of Cincinnati, *radiators*, from Edwardsville, Ill., to Cincinnati, Ohio, *paints and paint materials*, from Collinsville, Ill., to Cincinnati and Chillicothe, Ohio, and Richmond, Ind., from East St. Louis, Ill., to Richmond, Ind., *leather and leather board*, between Caseyville, Ill., and Cincinnati, Ohio, *general commodities*, with exceptions, between points and places in the St. Louis, Mo.—East St. Louis, Ill., Commercial Zone, supra, on the one hand, and, on the other, points in St. Louis County, Mo., and those in St. Clair and Madison Counties, Ill., between points and places in the St. Louis, Mo.—East St. Louis, Ill., Commercial Zone, supra. Vendee is authorized to operate as a *common carrier* in Ohio, Indiana, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-12651. Authority sought for continuance in control by TRANSPORTATION CONSULTANTS, INC., 6538 Collamer Road, East Syracuse, NY 13057, of (B) FOOD HAUL, INC., and its subsidiaries, (BB) J. C. D. TRANSPORTATION CORP., and (BBB) FLEETWOOD TRANSPORTATION CORP., and for acquisition by FREDERIC J. DURKIN, and JOHN C. DURKIN, JR., all of the above address, of control of FOOD HAUL, INC.; J. C. D. TRANSPORTATION CORP.; and FLEETWOOD TRANSPORTATION CORP.; through the acquisition by TRANSPORTATION CONSULTANTS, INC. Applicants' attorney: John Andrew Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114. Operating rights sought for continuance in control: (B) *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, as a *contract carrier* over irregular routes, between points in Ohio and those parts of Pennsylvania, Maryland, West Virginia, and Kentucky within the territory bounded by a line beginning at Marlinton, W. Va., and extending in a southwesterly direction through Ronceverte, Hinton, and Mullens, W. Va., to certain specified points in Kentucky, Ohio, Pennsylvania and West Virginia, between Jacksonville, Fla., and Summerville, S.C., between points in Duval County, Fla., on the one hand, and, on the other, points in Decatur, Colquitt, Thomas, Lowndes, Coffee, Ben Hill, Wayne, Bulloch, Tift and Ware Counties, Ga., and points in Florida, between Jacksonville, Fla., on the one hand, and, on the other, Savannah, Ga., and Beaufort, Charleston, and Walterboro, S.C., between Charleston, S.C., on the one hand, and, on the other, Beaufort and Walterboro, S.C., and Savannah, Ga., between Jacksonville, Baldwin, Lake City, Live Oak, Madison, Monticello, Tallahassee, Havana, Quincy, Starke, Waldo, Hawthorne, Ocala, Wildwood, Bushnell, Dade City, Leesburg, Tavares, Mount Dora, Apopka, Ocoee, Winter Garden, Orlando, Kissimmee, Saint Cloud, Groveland, Clermont, Polk City, Auburndale, Winter Haven, Lake Wales, Haines City, Dundee, Dunnellon, Iverness, Brooksville, Gainsville, Archer, Williston, Belleview, Summerfield, Weirsdale, Umatilla, and Eustis, Fla., between Jacksonville and Fernandina Beach, Fla., and Brunswick, Ga., with restrictions; between Jacksonville, Tampa, St. Petersburg, Clearwater, Tarpon Springs, Palmetto, Bradenton, Manatee, Sarasota, Venice, Arcadia, Punta Gorda, Fort Myers, Avon Park, Sebring, Frostproof, Plant City, Mulberry, Bushnell, Brooksville, Dade City, Iverness, Haines City, Dundee, Lake Wales, Winter Haven, Auburndale, Zephyrhills, Lakeland, Bartow, Fort Meade, and Wauchula, Fla.

(BB) *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, as a *contract carrier* over irregular routes, between points in Chemung County, N.Y., on the one hand, and, on the other, points in a defined area of Pennsylvania, with restriction; between points within the territory bounded by a line beginning at Port Jervis, N.Y., and extending in a northeasterly direction through Wurtsboro, N.Y., to points in a defined area of New York, and Pennsylvania, between points in the above-specified territory, on the one hand, and, on the other, New York, N.Y., Newark, Jersey City, and Trenton, N.J., and Philadelphia, Pa.; *fruits, vegetables, farm products, poultry*, and *sea food* in the respective seasons of their productions, from points in New York, New Jersey, and Pennsylvania to points in the above-specified territory, with restriction; (BBB) *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk), as a *contract carrier* over irregular routes, from Fleetwood, Pa., to points in Pennsylvania, New York, New Jersey, Maryland, Delaware, and the District of Columbia, from Fleetwood, Pa., to points in Virginia and West Virginia, from points in Pennsylvania, New York, New Jersey, Maryland, Delaware, Virginia, West Virginia, and the District of Columbia, to Fleetwood, Pa., with restrictions. TRANSPORTATION CONSULTANTS, INC., holds the stock of various non-regulated transportation corporations such as leasing company and a driver manpower company. None of these operations are subject to the jurisdiction of the Commission.

NOTE.—Motion to dismiss filed simultaneously herewith for lack of jurisdiction.

No. MC-F-12652. Authority sought for control and merger by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32203, of the operating rights and properties of MERCURY MOTORS, INCORPORATED, 1022 South "Y" St., Fort Smith, AR 72901, and for acquisition by IU TRANSPORTATION SERVICES, INC., which, in turn is controlled by IU INTERNATIONAL CORPORATION, both of The Wilmington Tower, 1105 N. Market St., Wilmington, DE 19801, of control of such rights and properties through the transaction. Applicants' attorneys: Roland Rice, 618 Perpetual Bldg., 1111 E St., N.W., Washington, D.C. 20004, H. Beatty Chadwick, 1500 Walnut St., Philadelphia, PA 19102, and John G. Christy, 1500 Walnut St., Philadelphia, PA 19102. Operating rights sought to be controlled and merged: (A) *General commodities*, with exceptions, as a *common carrier* over regular routes, between Fort Smith, Ark., and Memphis, Tenn., from Memphis, Tenn., to Marianna, Ark.; between Walnut Corner, Ark., and Little Rock and Holly Grove,

Ark.; between junction U.S. Highway 70 and Arkansas Highway 17 (near Brinkley, Ark.) and Helena, Ark., between Forrest City, Ark., and Marianna, Ark., between Lehi, Ark., and Barton, Ark.; between Levy, Ark., and Camp Joseph T. Robinson, Ark.; between Helena, Ark., and Old Town, Ark.; between Memphis, Tenn., and Forrest City, Ark., between Wynne, Ark., and Memphis, Tenn., and Marianna, Ark.; (B) between Memphis, Tenn., and Snow Lake, Ark.; serving United States missile launching sites in Conway County, Ark., as off-route points in connection with carrier's regular route operations between Morrilton and Plummerville, Ark.; *newspapers*, from Memphis, Tenn., to Marianna, Ark.; *general commodities*, with exceptions, over irregular routes, between Memphis, Tenn., on the one hand, and, on the other, points and places in Crittenden, St. Francis, and Lee Counties, Ark., other than West Memphis, Ark., south of U.S. Highway 70 and on and east of Arkansas Highway 1, and points and place in Phillips and Desha Counties, Ark., east of the White River and north of the Arkansas River; between points and places on the regular routes authorized in (B) above on the one hand, and, on the other, points and places in Arkansas within 15 miles west of Arkansas Highways 44 and 85 between Lakeview and Snow Lake, Ark., in off-route service. RYDER TRUCK LINES, INC., is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-12655. Authority sought for purchase by PLYMOUTH ROCK TRANSPORTATION CORPORATION, 1230 Massachusetts Ave., Boston, MA 02125, of the operating rights of MADONIA AND CARAVELLA TRANSPORTATION, INC., 1050 Millbury St., Worcester, MA 01607, and for acquisition by ARTHUR H. CORT, also of Boston, MA 02125, of control of such rights through the purchase. Applicants' attorneys: Frank J. Weiner, 15 Court Square, Boston, MA 02108, and Arthur Wentzell, P.O. Box 764, Worcester, MA 01613. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 97617 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Massachusetts. Vendee is authorized to operate as a *common carrier* in Rhode Island, Massachusetts, Connecticut, New York and New Jersey. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-105808 (Sub-No. 10), is a matter directly related.

By the Commission.

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

[FR Doc.75-28486 Filed 10-21-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

OCTOBER 17, 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 November 3, 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 proopsed 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 39140 (Sub-No. E1), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Nassau, Putnam, and Suffolk Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey Highway 77. The purpose of this filing is to eliminate the gateways of Coatesville, Pa., and Downingtown, Pa.

No. MC 39140 (Sub-No. E2), filed May 14, 1974. Applicant: A DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Columbiana, Dutchess, Orange, Sullivan, and Ulster Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Salem County. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E3), filed May 14, 1974. Applicant: A DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Montgomery, Saratoga, and Schenectady Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Gloucester, Salem, Cumberland, and Cape May Counties. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E4), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Delaware and Otsego Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Salem, Cumberland, and Cape May Counties, and that part of Atlantic County, N.J., on and south of a line beginning at the Cumberland-Atlantic County line, and extending along New Jersey Highway 552 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E5), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Albany, Rensselaer, and Schoharie Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Cape May, Cumberland, and Salem Counties. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E6), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Greene County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Salem and Cumberland Counties. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E7), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, be-

tween points in Hamilton, and Warren Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey Stateline and extending along New Jersey Highway 73 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E8), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel products* requiring specialized handling or rigging, because of size or weight, between points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction Atlantic County line, thence along the Atlantic County line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E9), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel products* requiring specialized handling or rigging, because of size or weight, between points in Washington County, N.Y., on the one hand, and, on the other, points in the part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 73 to junction New Jersey Highway 561, thence along New Jersey Highway 561 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction New Jersey Highway 559, thence along New Jersey Highway 559 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 52, thence along New Jersey Highway 52 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Dowingtown, Pa.

No. MC 39140 (Sub-No. E10), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel products* requiring specialized handling or rigging, because of size or weight, between points in Chenango County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in and south of Camden and Atlantic Counties. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E11), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel products* requiring specialized handling or rigging, because of size or weight, between points in Madison County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in and south of Camden and Burlington Counties. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E12), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Herkimer County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 38, thence along New Jersey Highway 38 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E13), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Broome, Lewis, and Oneida Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction Ocean County line, thence along Ocean County line to junction New Jersey Highway 72, thence along New Jersey Highway 72, to junction New Jersey Highway 534, thence along New Jersey Highway 534 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville, Pa. and Downingtown, Pa.

No. MC 39140 (Sub-No. E14), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Clinton County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction Atlantic County line, thence along Atlantic County line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E 15), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Essex County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 73 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction New Jersey Highway 563, thence along New Jersey Highway 563 to junction New Jersey Highway Atlantic City Expressway, thence along New Jersey Highway Atlantic City Expressway to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E 16), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Franklin County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E 17), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, be-

tween St. Lawrence County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction Middlesex County line, thence along Middlesex County line to junction Ocean County line, thence along the northern border of the Ocean County line via Lakewood, N.J., to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E18), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Cortland County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 37, thence along New Jersey Highway 37 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E19), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Tioga and Onondaga Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey and south of Burlington and Ocean Counties. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E20), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Oswego County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 1 to junction Middlesex County line, thence along Middlesex County line to junction New Jersey Highway 33, thence along New Jersey Highway 33 to junction New Jersey Highway 527, thence along New Jersey Highway 527 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E21), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Jefferson County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 206 to junction Burlington County line, thence along Burlington County line to junction New Jersey Highway 528, thence along New Jersey Highway 528 to junction New Jersey Highway 539, thence along New Jersey Highway 539 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E22), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Tompkins County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 33 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E23), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Cayuga County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 1 to junction New Jersey Highway 571, thence along New Jersey Highway 571 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E24), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel and iron and steel products* requiring specialized handling or rigging because of size or weight, between Seneca County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction Middlesex County line, thence along Middlesex County line to junction New Jersey Highway 571, thence along New Jersey Highway 571 to junction New Jersey Highway 528, thence along New Jersey Highway 528 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E25), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel and iron and steel products* requiring specialized handling or rigging because of size or weight, between Chemung County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 546 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 537, thence along New Jersey Highway 537 to junction New Jersey Garden State Parkway, thence along New Jersey Garden State Parkway to junction New Jersey Highway 520, thence along New Jersey Highway 520 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E26), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, be-

tween Yates County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E27), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Ontario and Schuyler Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction Middlesex County line, thence along Middlesex County line to junction New Jersey Highway 520, thence along New Jersey Highway 520 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E28), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Wayne County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 535, thence along New Jersey Highway 535 to junction New Jersey Highway 18, thence along New Jersey Highway 18 to junction New Jersey Highway 520, thence along New Jersey Highway 520 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville or Downingtown, Pa.

No. MC 39140 (Sub-No. E29), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Steuben County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 202 to junction New Jersey Highway Spur 514, thence along New Jersey Highway Spur 514 to junction Somerset County line, thence along Somerset County line to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 535, thence along New Jersey Highway 535 to junction New Jersey Highway 527, thence along New Jersey Highway 527 to junction New Jersey Highway 520, thence along New Jersey Highway 520 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E30), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel* products requiring specialized handling or rigging because of size or weight, between Livingston County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 12 to junction New Jersey Highway Spur 514, thence along New Jersey Highway Spur 514 to junction New Jersey Highway 514, thence along New Jersey Highway 514 to junction Raritan River, thence along Raritan River to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E31), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Monroe County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 516, thence along New Jersey Highway 516 to junction Middlesex County line, thence along Middlesex County line via Dunellen and Rahway, N.J., to the New Jersey-New York State line. The purpose of this filing is to eliminate the gateways of points in Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E32), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Allegany and Cattaraugus Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 12 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction New Jersey Garden State Parkway, thence along New Jersey Garden State Parkway to junction U.S. Highway 280, thence along U.S. Highway 280 to junction U.S. Highway Business 1, thence along U.S. Highway Business 1 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E33), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Wyoming County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 12 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction New Jersey Garden State Parkway, thence along New Jersey Garden State Parkway to junction U.S. Highway 280, thence along U.S. Highway 280 to junction U.S. Highway Business 1, thence along U.S. Highway Business 1 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E34), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Genesee County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 12 to junction New Jersey Highway 514, thence along New Jersey Highway 514 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the New York-New Jersey State line. The purpose of this filing is to eliminate the

gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E35), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Orleans County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 202 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Middlesex County line, thence along Middlesex County line via Dunellen, N.J., and Rahway, N.J., to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E36), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Chatautauqua County, N.Y., on the one hand, and, on the other, points in New Jersey excluding those in Sussex County and those in Passaic County north of Interstate Highway 287. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E37), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Erie County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along Interstate Highway 78 to junction New Jersey Garden State Parkway, thence along New Jersey Garden State Parkway to junction Interstate Highway 280, thence along Interstate Highway 280 to via Harrison, N.J., to junction U.S. Business Route 1, thence along U.S. Business Route 1 to the New Jersey-New York State line excluding points in Warren County, N.J. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E38), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Niagara County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in and south of Hunterdon, Somerset, Union, Essex, and Hudson Counties, excluding those points in Hunterdon and Somerset Counties north of Interstate Highway 78 and those in Essex County north of New Jersey Highway 46. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E39), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Connecticut, on the one hand, and, on the other, points in Maryland, Delaware, and District of Columbia. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E40), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Windham and New London Counties, Conn., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 40 to junction New Jersey Highway 55, thence along New Jersey Highway 55 to junction New Jersey Highway 555, and thence along New Jersey Highway 555 to junction with dividing creek and thence along the boundary of dividing creek to the Delaware Bay. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E41), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Boston, Mass., and points in Massachusetts within ten miles of Boston, on the one hand, and, on the other, points in Delaware, Maryland, District of Columbia, and those in New Jersey located in Camden, Gloucester, Salem, Cumberland, Cape May, and that portion of Atlantic County on and south of a line beginning at the Gloucester-Atlantic County line and extending along New Jersey Highway Atlantic City Expressway to junction New Jersey Highway 50, thence along New Jersey Highway 50 to the Cape May County line. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E42), filed May 14, 1974. Applicant: A DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Kent County, Del., on the one hand, and, on the other, points in Garrett and Allegany Counties, Md. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E43), filed May 14, 1974. Applicant: A DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Calvert and Anne Arundel, Cecil, Kent, Queen Anne's, Caroline, Talbot, Dorchester, Wicomico, Somerset, and Worcester, Md., on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E44), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Garrett County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 17 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 26, thence along New York Highway 26 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 185, thence along New York Highway 185 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 56, thence along New York Highway 56 to junction New York Highway 37, thence along New York Highway 37 to the St. Lawrence River. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E45), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought

to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Allegany County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 17 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 26, thence along New York Highway 26 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 185, thence along New York Highway 185 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 56, thence along New York Highway 56 to the St. Lawrence River. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E46), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Washington County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 26 to junction New York Highway 17, thence along New York Highway 17 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction New York Highway 57, thence along New York Highway 57 to Lake Ontario. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E47), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Carroll and Frederick, Md., on the one hand, and, on the other, points in New York in and east of Oswego, Onondago, Cortland, and Broome. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E48), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Howard, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 17 to junction New York Highway 96, thence along New York Highway 96, via Ithaca, N.Y., to junction U.S. Highway 20, thence along U.S. Highway 20, via Geneva, N.Y., to junction New York Highway 14, thence along New York Highway 14 to Lake Ontario. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E49), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging, because of size or weight, between points in Montgomery, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 282 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 96, thence along New York Highway 96 to junction New York Highway 34, thence along New York Highway 34 to junction New York Highway 224, thence along New York Highway 224 to junction New York Highway 14A, thence along New York Highway 14A to junction New York Highway 247, thence along New York Highway 247 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 332, thence along New York Highway 332 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction U.S. Highway 490, thence along U.S. Highway 490 to junction New York Highway 33, thence along New York Highway 33 to junction New York Highway 261, thence along New York Highway 261 to Lake Ontario. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E50), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron* and *steel products* requiring specialized handling or rigging because of size or weight, between Baltimore County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 17 to junction New York Highway 96, thence along New York Highway 96 to junction New York Highway 34, thence along New York Highway 34 to junction New York Highway 224, thence along New York Highway 224 to the Chemung-Schuyler County line, thence along the Chemung-Schuyler County line to junction Schuyler-Steuben County line, thence along Schuyler-Steuben County line to junction New York Highway 226 to junction U.S. Highway 15 and thence along U.S. Highway 15 to junction New York Highway 401, thence along New York Highway 401 to junction New York Highway 36, thence along New York Highway 36 to junction U.S. Highway 20A, thence along U.S. Highway 20A to Lake Erie. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E51), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Baltimore, Md., on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E52), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Prince Georges County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 15 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 36, thence along New York Highway 36 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 98, thence along New York Highway 98 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 438, thence along New York Highway 438 to Lake Erie. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E53), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Charles County, Md., on the one hand, and, on the other, points in that part of New York State line and extending along New York Highway 19 to junction New York Highway 243, thence along New York Highway 243 to junction New York Highway 98, thence along New York Highway 98 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 438,

thence along New York Highway 438 to Lake Erie. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E54), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *Iron and steel products* requiring specialized handling or rigging because of size or weight, between Harford and St. Mary's Counties, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the New York-Pennsylvania State line and extending along the Cataraugus-Chautauqua County line to junction New York Highway 39, thence along New York Highway 39 to Lake Erie. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E55), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Howard County, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 76 to junction New Jersey Highway 42, thence along New Jersey Highway 42 to junction Atlantic City Expressway, thence along New Jersey Atlantic Expressway to junction New Jersey Highway 536, thence along New Jersey Highway 536 to junction New Jersey Highway 561, thence along New Jersey Highway 561 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E56), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points between Montgomery, Prince Georges, Charles, Anne Arundel, and Calvert Counties, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 76 to junction New Jersey Highway 42, thence along New Jersey Highway 42 to junction New Jersey Highway Atlantic City, thence along New Jersey Highway Atlantic City to junction New Jersey Highway 536, thence along New Jersey Highway 536 to junction New Jersey Highway 561, thence along New Jersey Highway 561 to junction New Jersey Highway 54, thence along New Jersey Highway 54 to junction New Jersey Highway 557, thence along New Jersey Highway 557 to junction Tuckahoe River, thence along Tuckahoe River to junction Cumberland-Atlantic County line, thence along Cumberland-Atlantic County line to junction West Creek and thence along West Creek to the Delaware Bay. The purpose of this filing is to eliminate the gateways of Coatesville and Dowingtown, Pa.

No. MC 39140 (Sub-No. E57), filed May 14, 1974. Applicant: A DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Garrett, Allegany, Washington, Frederick, and Carroll Counties, Md., on the one hand, and, on the other, points in New Jersey. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E58), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between St. Mary's County, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 322 to junction New Jersey Highway 47, and thence along New Jersey Highway 47 to the Maurice River, thence along the Maurice River to the Delaware Bay. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E59), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Iron and steel and iron and steel products requiring specialized handling or rigging because of size or weight, between Baltimore, Hartford, and Queen Ann Counties, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E60), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Baltimore, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 206 to junction New Jersey Highway 545, thence along New Jersey Highway 545 to junction New Jersey Highway 545 Spur, thence along New Jersey Highway 545 Spur to junction New Jersey Highway 528 Spur, thence along New Jersey Highway 528 Spur to junction Ocean-Burlington County line, thence along Ocean-Burlington County line to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E61), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Kent County, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 206 to junction New Jersey Highway 545, thence along New Jersey Highway 545 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction Ocean-Burlington County line, thence along Ocean-Burlington County line to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E62), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Caroline County, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jer-

sey Highway 530, thence along New Jersey Highway 530 to junction Ocean-Burlington County line, thence along Ocean-Burlington County line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E63), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Talbot County, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 38 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction Ocean-Burlington County line, and thence along Ocean-Burlington County line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville or Downingtown, Pa.

No. MC 39140 (Sub-No. E64), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Dorchester County, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 76 to junction New Jersey Highway 42, thence along New Jersey Highway 42 to junction New Jersey Highway Atlantic City Expressway, thence along New Jersey Highway Atlantic City Expressway to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E65), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between Wicomico, Worcester, and Somerset Counties, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to junction Ocean-Burlington County line, thence along Ocean-Burlington County line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E66), filed May 14, 1974. Applicant: A. DUIE PYLE INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in New Castle County, Del., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along Interstate Highway 80, via Netcong, N.J., to junction U.S. Highway 46, thence along U.S. Highway 46 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E67), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Sussex County, Del., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 206 to junction New Jersey Highway 68, thence along New Jersey Highway 68 to junction New Jersey Highway 545, thence along New Jersey Highway 545 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 37, thence along New Jersey Highway 37 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E68), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Kent County, Del., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 33 to junction U.S. Highway 130, thence along U.S. Highway 130 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Coatesville and Downingtown, Pa.

No. MC 39140 (Sub-No. E69), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron* and *steel* and *iron and steel products* requiring specialized handling or rigging because of size or weight, between points in Delaware, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateways of Coatesville and Downington, Pa.

No. MC 39140 (Sub-No. E70), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts* between points in Nassau, Putnam, and Suffolk Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Salem County east of New Jersey Highway 77. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E71), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Columbia, Dutchess, Orange, Sullivan, and Ulster Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Salem County. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E72), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Montgomery, Saratoga, and Schenectady County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Gloucester, Salem, Cumberland, and Cape May Counties. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E73), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Delaware and Otsego Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Salem, Cumberland, and Cape May Counties, N.J., and that part of Atlantic County, N.J., on and south of a line beginning at the Cumberland-Atlantic County line and extending along New

Jersey Highway 552 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E74), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Albany, Rensselaer, and Schoharie Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Cape May, Cumberland, and Salem Counties. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E75), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Greene County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Salem and Cumberland Counties. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E76), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between points in Warren and Hamilton Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 73 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E77), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith Smith (same as above). Authority sought operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Fulton County, N.Y., on the hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction Atlantic County line, thence along Atlantic County line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E78), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Washington County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 73 to junction New Jersey Highway 561, thence along New Jersey Highway 561 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction New Jersey Highway 559, thence along New Jersey Highway 559 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 52, thence along New Jersey Highway 52 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E79), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Chenango County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Camden and Atlantic Counties. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E80), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Madison County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in and south of Camden and Burlington Counties. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E81), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Herkimer County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 38, thence along New Jersey Highway 38 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E82), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Broome, Lewis, and Oneida Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction Ocean County line, thence along Ocean County line to junction New Jersey Highway 72, thence along New Jersey Highway 72 to junction New Jersey Highway 534, thence along New Jersey Highway 534 to the Atlantic Ocean. The purpose of the filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E83), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Clinton County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413, to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction Atlantic County line, thence along Atlantic County line to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E84), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Essex County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 73 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction New Jersey Highway 563, thence along New Jersey Highway 563 to junction New Jersey Highway Atlantic City Expressway, thence along New Jersey Highway Atlantic City Expressway to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E85), filed May 14, 1974. Applicant: A. DUIE PYLE,

INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Franklin County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem Counties. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E86), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between St. Lawrence County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction Middlesex County line, thence along Middlesex County line to junction Ocean County line, thence along Ocean County line via Lakewood, N.J., to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E87), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Cortland County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 37, thence along New Jersey Highway 37 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E88) filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Tioga and Onondaga Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey in and south of Burlington and Ocean Counties. The purpose of this filing is to eliminate the gateway of Chester, Pa.

No. MC 39140 (Sub-No. E89), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Oswego County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 1 to junction Middlesex County line, thence along Middlesex County line to junction New Jersey Highway 33, thence along New Jersey Highway 33 to junction New Jersey Highway 527, thence along New Jersey Highway 527 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E90), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Jefferson County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 206 to junction Burlington County line, thence along Burlington County line to junction New Jersey Highway 528, thence along New Jersey Highway 528 to junction New Jersey Highway 539, thence along New Jersey Highway 539 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E91), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Tompkins County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 33 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E92), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Cayuga County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 1 to junction New Jersey Highway 571, thence along New Jersey Highway 571 to junction New Jersey Highway 526, thence along New Jersey Highway 526 to junction U.S. Highway 9, thence along U.S. Highway 9 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E93), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Seneca County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction Middlesex County line, thence along Middlesex County line to junction New Jersey Highway 571, thence along New Jersey Highway 571 to junction New Jersey Highway 528, thence along New Jersey Highway 528 to junction New Jersey Highway 88, thence along New Jersey Highway 88 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E94), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Chemung County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 546 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 537, thence along New Jersey Highway 537 to junction New Jersey Garden State Parkway, thence along New Jersey Garden State Parkway to junction New Jersey Highway 520, thence along New Jersey Highway 520 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E95), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Yates County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning

at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E96), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Ontario and Schuyler Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction Middlesex County line, thence along Middlesex County line to junction New Jersey Highway 520, thence along New Jersey Highway 520 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E97), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Wayne County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 535, thence along New Jersey Highway 535 to junction New Jersey Highway 18, thence along New Jersey Highway 18 to junction New Jersey Highway 520, thence along New Jersey Highway 520 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E98), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Steuben County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on the south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 202 to junction New Jersey Highway Spur 514, thence along New Jersey Highway Spur 514 to junction Somerset County line, thence along Somerset County line to junction New Jersey Highway 522, thence along New Jersey Highway 522 to junction New Jersey Highway 535, thence along New Jersey Highway 535 to junction New Jersey Highway 527, thence along New Jersey Highway 527 to junction New Jersey Highway 520, thence along New Jersey Highway 520 to Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E99), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Livingston County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 12 to junction New Jersey Highway Spur 514, thence along New Jersey Highway Spur 514 to junction New Jersey Highway 514, thence along New Jersey Highway 514 to junction Raritan River, thence along Raritan River to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E100), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Monroe County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 518 to junction New Jersey Highway 27, thence along New Jersey Highway 27 to junction New Jersey Highway 516, thence along New Jersey Highway 516 to junction Middlesex County line, thence along Middlesex County line via Dunellen and Rahway, N.J., to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E101), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Allegany and Cattaraugus Counties, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 12 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction New Jersey Garden State Parkway, thence along New Jersey Garden State Parkway to junction U.S. Highway 280, thence along U.S. Highway 280 to junction U.S. Highway Business 1, thence long U.S. Highway Business 1 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E102), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Wyoming County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 12 to junction U.S. Highway 202, thence along U.S. Highway 202 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction New Jersey Garden State Parkway, thence along New Jersey Garden State Parkway to junction U.S. Highway 280, thence along U.S. Highway 280 to junction U.S. Highway 1, thence along U.S. Highway 1 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateways of West Chester, Pa.

No. MC 39140 (Sub-No. E103), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Genesee County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 12 to junction New Jersey Highway 514, thence along New Jersey Highway 514 to junction New Jersey Highway 440, thence along New Jersey Highway 440 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E104), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Orleans County, N.Y., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 202 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Middlesex County line, thence along Middlesex County line via Dunellen, N.J., and Rahway, N.J., to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E105), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry

Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Niagara County, N.Y., on the one hand, and, on the other, points in that part of New Jersey in and south of Hunterdon, Somerset, Union, Essex, and Hudson excluding those points in Hunterdon and Somerset Counties north of Interstate Highway 78 and those in Essex County north of New Jersey Highway 46. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E106), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Kent County, Del., on the one hand, and, on the other, points in Garrett and Allegany Counties, Md. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E107), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Delaware, on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E108), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Calvert, Anne Arundel, Cecil, Kent, Queen Anne's, Caroline, Talbot, Dorchester, Wicomico, Somerset, and Worcester, Md., on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E109), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts* between points in Garrett County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 17 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 26, thence along New York Highway 26 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 185, thence along New York Highway 185 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 56, thence along New York Highway 56 to junction New York Highway 37, thence along New York Highway 37 to the St. Lawrence River. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E110), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Allegany County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 17 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 26, thence along New York Highway 26 to junction New York Highway 3, thence along New York Highway 3 to junction New York Highway 185, thence along New York Highway 185 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 56, thence along New York Highway 56 to the St. Lawrence River. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E111), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Washington County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 26 to junction New York Highway 17, thence along New York Highway 17 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction New York Highway 57, thence along New York Highway 57 to Lake Ontario. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E112), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Carroll and Frederick Counties, Md., on the one hand, and, on the other, points in that part of New York in and east of Oswego, Onondaga, Cortland, and Broome Counties. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E113), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Howard County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 17 to junction New York Highway 96, thence along New York Highway 96 via Ithica, N.Y., to junction U.S. Highway 20, thence along U.S. Highway 20, via Geneva, N.Y., to junction New York Highway 14, thence along New York Highway 14 to Lake Ontario. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E114), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Montgomery County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 282 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 96, thence along New York Highway 96 to junction New York Highway 34, thence along New York Highway 34 to junction New York Highway 224, thence along New York Highway 224 to junction New York Highway 14A, thence along New York Highway 14A to junction New York Highway 364, thence along New York Highway 364 to junction New York Highway 247, thence along New York Highway 247 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction New York Highway 332, thence along New York Highway 332 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction U.S. Highway 490, thence along U.S. Highway 490 to junction New York Highway 33, thence along New York Highway 33 to junction New York Highway 261, thence along New York Highway 261 to Lake Ontario. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E115), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Baltimore County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 17 to junction New York Highway 96, thence along New York Highway

96 to junction New York Highway 34, thence along New York Highway 34 to junction New York Highway 224, thence along New York Highway 224 to the Chemung-Schuyler County line, thence along the Chemung-Schuyler County line to the Schuyler-Steuben County line, thence along the Schuyler-Steuben County line to junction New York Highway 226, thence along New York Highway 226 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction New York Highway 401, thence along New York Highway 401 to junction New York Highway 36, thence along New York Highway 36 to junction U.S. Highway 20A, thence along U.S. Highway 20A to Lake Erie. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E116), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Baltimore, Md., on the one hand, and, on the other, points in New York. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E117), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Prince Georges County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 15 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 36, thence along New York Highway 36 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 243, thence along New York Highway 243 to junction New York Highway 98, thence along New York Highway 98 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 438, thence along New York Highway 438 to Lake Erie. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E118), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Charles County, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 19 to junction New York Highway 243, thence along New York Highway 243 to junction New York Highway 98, thence along New York Highway 98 to junction New York Highway 39, thence along New York Highway 39 to junction New York Highway 438, thence along New York Highway 438 to Lake Erie. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E119), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Harford and St. Mary's Counties, Md., on the one hand, and, on the other, points in that part of New York on and east of a line beginning at the New York-Pennsylvania State line and extending along the Cataraugus-Chautauqua County line to junction New York Highway 39, thence along New York Highway 39 to Lake Erie. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E120), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between points in the District of Columbia, on the one hand, and, on the other, points in New Jersey, Connecticut, Boston, Mass., and points in Massachusetts within ten miles of Boston and in New York, excluding points on and west of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 305 to junction New York Highway 243, thence along New York Highway 243 to junction New York Highway 98, thence along New York Highway 98 to junction New York Highway 78, thence along New York Highway 78 to junction U.S. Highway 20A, thence along U.S. Highway 20A to junction New York Highway 75, thence along New York Highway 75 to the United States-Canada International Boundary line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E121), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Niagara County, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the District of Columbia-Virginia border line and extending along U.S. Highway 95 to junction U.S. Highway 360, thence along U.S. Highway 360 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 29, thence along U.S. Highway 29 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E122), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Erie County, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Maryland-Virginia State line and extending along U.S. Highway 301 to junction Virginia Highway 207, thence along Virginia Highway 207 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction U.S. Highway 360, thence along U.S. Highway 360 to junction Virginia Highway 304, thence along Virginia Highway 304 to junction U.S. Highway 501, thence along U.S. Highway 501 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E123), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery and parts*, between Chautauqua County, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Chesapeake Bay at Newport News, Va., and extending along U.S. Highway 60 to junction U.S. Highway 258, thence along U.S. Highway 258 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction Virginia Highway 35, thence along Virginia Highway 35 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E124), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Cattaraugus County, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the James River, at Jamestown, Va., and extending along Virginia Highway 31 to junction Virginia Highway 5, thence along Virginia Highway 5 to junction Virginia Highway 156, thence along Virginia Highway 156 to junction Virginia Highway 106, thence along Virginia Highway 106 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Virginia Highway 40, thence along Virginia Highway 40 to junction Virginia Highway 49, thence along Virginia Highway 49 to junction U.S. Highway 58, thence along U.S. Highway 58 to junction U.S. Highway 15, thence along U.S. Highway 15 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E125), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Wyoming and Allegany Counties, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Maryland-Virginia State line and extending along the Loudon-Potomac County line to junction Virginia Highway 28, thence along Virginia Highway 28 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Orange-Louisa County line, thence along Orange-Louisa County line to junction Albemarle-Louisa County line, thence along Albemarle-Louisa County line to junction Albemarle-Buckingham County line, thence along Albemarle-Buckingham County line to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Bedford-Campbell County line, thence along Bedford-Campbell County line to junction Franklin-Pittsylvania County line, thence along Franklin-Pittsylvania County line to junction Franklin-Henry County line, thence along Franklin-Henry County line to junction Patrick-Henry County line, thence along Patrick-Henry County line to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E126), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Monroe, Schuyler, Chemung, Tioga, and Seneca Counties, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Maryland-Virginia State line and extending along the Loudoun-Fairfax County line to junction Virginia Highway 28, thence along Virginia Highway 28 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Interstate Highway 81, thence along Interstate Highway 81 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E127), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Wayne, Ontario, and Yates Counties, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Maryland-Virginia State line and extending along Loudoun-Potomac County line to junction Virginia Highway 28, thence along Virginia Highway 28 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 64 thence along U.S. Highway 64 to junction U.S. Highway 340, thence along U.S. Highway 340 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction Craig-Montgomery County line, thence along Craig-Montgomery County line to junction Giles-Montgomery County line, thence along Giles-Montgomery County line to junction Giles-Pulaski County line, thence along Giles-Pulaski County line to junction Giles-Bland County line, thence along Giles-Bland County line to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E128), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Cayuga and Tompkins Counties, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Maryland-Virginia State line and extending along the Loudoun-Potomac County line to junction Virginia Highway 28, thence along Virginia Highway 28 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E129), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *machinery* and *parts*, between Broome, Cortland, Onondaga (excluding points north of U.S. Highway 20 and east of U.S. Highway 81), and that part of Oswego County, N.Y., west of U.S. Highway 81 and south of New York Highway 13, on the one hand, and, on the other, points in that part of Virginia on and east of a line beginning at the Maryland-Virginia State line and extending along U.S. Highway 340 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E130), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Connecticut, on the one hand, and, on the other, points in Delaware, Maryland, Virginia, West Virginia, and District of Columbia. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E131), filed May 14, 1974. Applicant: A DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Windham and New London Counties, Conn., on the one hand, and, on the other, points in that part of New Jersey on and south of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 40 to junction New Jersey Highway 55, thence along New Jersey Highway 55 to junction New Jersey Highway 555, thence along New Jersey Highway 555 to junction with dividing creek, thence along the boundary of the dividing creek to the Delaware Bay. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E132), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between New Castle County, Del., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along Interstate Highway 80, via Netcong, N.J., to junction U.S. Highway 46, thence along U.S. Highway 46 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E133), filed May 14, 1974. Applicant. A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Sussex County, Del., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 206 to junction New Jersey Highway 68, thence along New Jersey Highway 68 to junction New Jersey Highway 545, thence along New Jersey Highway 545 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 37, thence along New Jersey Highway 37 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E134), filed May 14, 1974. Applicant: A. DUIE PYLE,

INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in Kent County, Del., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 33 to junction U.S. Highway 130, thence along U.S. Highway 130 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E135), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between points in New Jersey, on the one hand, and, on the other, points in Virginia and West Virginia. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E136), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Howard County, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 76 to junction New Jersey Highway 42, thence along New Jersey Highway 42 to junction Atlantic City Expressway, thence along Atlantic City Expressway to junction New Jersey Highway 536, thence along New Jersey Highway 536 to junction New Jersey Highway 561, thence along New Jersey Highway 561 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E137), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Montgomery, Prince Georges, Charles, Anne Arundel, and Calvert Counties, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 76 to junction New Jersey Highway 42, thence along New Jersey Highway 42 to junction New Jersey Highway Atlantic Expressway, thence along New Jersey Highway Atlantic Expressway to junction New Jersey Highway 536, thence along New Jersey Highway 536 to junction New Jersey Highway 561, thence along New Jersey Highway 561 to junction New Jersey Highway 54, thence along New Jersey Highway 54 to junction New Jersey 557, thence along New Jersey Highway 557 to junction Tuckahoe River, thence along Tuckahoe River to junction Cumberland-Atlantic County line, thence along Cumberland-Atlantic County line to junction West Creek, thence along West Creek to the Delaware Bay. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E138), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between St. Mary's County, Md., on the one hand, ning at the Pennsylvania-New Jersey and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along U.S. Highway 322 to junction New Jersey Highway 47, thence along New Jersey Highway 47, to junction Maurice River to the Delaware Bay. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

No. MC 39140 (Sub-No. E139), filed May 14, 1974. Applicant: A. DUIE PYLE, INC., 200 Garfield Ave., W. Chester, Pa. 19380. Applicant's representative: Harry Smith (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery* and *parts*, between Baltimore, Harford, and Queen Annes Counties, Md., on the one hand, and, on the other, points in that part of New Jersey on and north of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 413 to junction New Jersey Highway 541, thence along New Jersey Highway 541 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to junction U.S. Highway 206, thence along U.S. Highway 206 to junction New Jersey Highway 70, thence along New Jersey Highway 70 to junction New Jersey Highway 72, thence along New Jersey Highway 72 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of West Chester, Pa.

By the Commission.

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

[FR Doc.75-28479 Filed 10-21-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 22, 1975

PART II:

FEDERAL TRADE COMMISSION

MAIL ORDER MERCHANDISE

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Promulgation of Trade Regulation Rule

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

PART 435—MAIL ORDER MERCHANDISE

Promulgation of Trade Regulation Rule

The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Subpart B, Part I of the Commission's Procedures and Rules of Practice, 16 CFR 1.11, et seq., has conducted a proceeding for the promulgation of a Trade Regulation Rule concerning Undelivered Mail Order Merchandise and Services. Notice of this proceeding, including a proposed Rule, was published in the FEDERAL REGISTER on September 28, 1971 (36 FR 19092 (1971)). Interested parties were thereafter afforded opportunity to participate in the proceeding through the submission of written data, views and arguments, and to appear and express their views orally and to suggest amendments, revisions, and additions to the proposed Rule.

After it had considered the suggestions, criticisms, objections, and other pertinent information in the Record, the Commission on March 8, 1974, published a revised proposed rule in a notice in the FEDERAL REGISTER (39 FR 9201 (1974)) extending an opportunity to interested parties to submit data, views or arguments regarding the revised proposed Rule. A period of over 90 days was allowed for the submission of written comments on the revised proposal. Written comments of the Direct Mail/Marketing Association (DM/MA) were admitted into the Record at a subsequent date and the public was given 30 days to submit written views and comments related to the DM/MA submission (39 FR 40515 (1974)).

The Commission has now considered all matters of fact, law, policy and discretion, including the data, views and arguments presented on the Record by interested parties in response to the Notices, as prescribed by law, and has determined that the adoption of the Trade Regulation Rule set forth herein and its Statement of Basis and Purpose[1] is in the public interest.

Accordingly, the Commission hereby amends Subchapter D, Trade Regulation Rules, Chapter I of 16 CFR by adding a new Part 435 as follows:

Sec.
435.1 The Rule.
435.2 Definitions.

AUTHORITY: The provisions of this Part 435 issued under 38 Stat. 717, as amended, 15 U.S.C. 41, et seq.

§ 435.1 The Rule.

In connection with mail order sales in commerce, as "commerce" is defined in the Federal Trade Commission Act, it constitutes an unfair method of competition, and an unfair or deceptive act and practice for a seller:

(a)(1) To solicit any order for the sale of merchandise to be ordered by the buyer through the mails unless, at the time of the solicitation, the seller has a reasonable basis to expect that he will be able to ship any ordered merchandise to the buyer: (i) within that time clearly and conspicuously stated in any such solicitation, or (ii) if no time is clearly and conspicuously stated, within thirty (30) days after receipt of a properly completed order from the buyer.

(2) To provide any buyer with any revised shipping date, as provided in paragraph (b), unless, at the time any such revised shipping date is provided, the seller has a reasonable basis for making such representation regarding a definite revised shipping date.

(3) To inform any buyer that he is unable to make any representation regarding the length of any delay unless (i) the seller has a reasonable basis for so informing the buyer and (ii) the seller informs the buyer of the reason or reasons for the delay.

(4) In any action brought by the Federal Trade Commission, alleging a violation of this part, the failure of a respondent-seller to have records or other documentary proof establishing his use of systems and procedures which assure the shipment of merchandise in the ordinary course of business within any applicable time set forth in this part will create a rebuttable presumption that the seller lacked a reasonable basis for any expectation of shipment within said applicable time.

(b)(1) Where a seller is unable to ship merchandise within the applicable time set forth in paragraph (a)(1), above, to fail to offer to the buyer, clearly and conspicuously and without prior demand, an option either to consent to a delay in shipping or to cancel his order and receive a prompt refund. Said offer shall be made within a reasonable time after the seller first becomes aware of his inability to ship within the applicable time set forth in paragraph (a)(1), but in no event later than said applicable time.

(i) Any offer to the buyer of such an option shall fully inform the buyer regarding his right to cancel the order and to obtain a prompt refund and shall provide a definite revised shipping date, but where the seller lacks a reasonable basis for providing a definite revised shipping date the notice shall inform the buyer that the seller is unable to make any representation regarding the length of the delay.

(ii) Where the seller has provided a definite revised shipping date which is thirty (30) days or less later than the applicable time set forth in paragraph (a)(1), the offer of said option shall expressly inform the buyer that, unless the seller receives, prior to shipment and prior to the expiration of the definite revised shipping date, a response from the buyer rejecting the delay and cancelling the order, the buyer will be deemed to have consented to a delayed shipment on or before the definite revised shipping date.

(iii) Where the seller has provided a definite revised shipping date which is more than thirty (30) days later than the applicable time set forth in paragraph (a)(1) or where the seller is unable to provide a definite revised shipping date and therefore informs the buyer that he is unable to make any representation regarding the length of the delay, the offer of said option shall also expressly inform the buyer that his order will automatically be deemed to have been cancelled unless (A) the seller has shipped the merchandise within thirty (30) days of the applicable time set forth in paragraph (a)(1), and has received no cancellation prior to shipment, or (B) the seller has received from the buyer within thirty (30) days of said applicable time, a response specifically consenting to said shipping delay. Where the seller informs the buyer that he is unable to make any representation regarding the length of the delay, the buyer shall be expressly informed that, should he consent to an indefinite delay, he will have a continuing right to cancel his order at any time after the applicable time set forth in paragraph (a)(1) by so notifying the seller prior to actual shipment.

(iv) Nothing in this paragraph shall prohibit a seller who furnishes a definite revised shipping date pursuant to paragraph (b)(1)(i), from requesting, simultaneously with or at any time subsequent to the offer of an option pursuant to paragraph (b)(1), the buyer's express consent to a further unanticipated delay beyond the definite revised shipping date in the form of a response from the buyer specifically consenting to said further delay. *Provided, however,* That where the seller solicits consent to an unanticipated indefinite delay the solicitation shall expressly inform the buyer that, should he so consent to an indefinite delay, he shall have a continuing right to cancel his order at any time after the definite revised shipping date by so notifying the seller prior to actual shipment.

(2) Where a seller is unable to ship merchandise on or before the definite revised shipping date provided under paragraph (b)(1)(i) and consented to by the buyer pursuant to paragraph (b)(1)(ii) or (iii), to fail to offer to the buyer, clearly and conspicuously and without prior demand, a renewed option either to consent to a further delay or to cancel the order and to receive a prompt refund. Said offer shall be made within a reasonable time after the seller first becomes aware of his inability to ship before the said definite revised date, but in no event later than the expiration of the definite revised shipping date. Provided, however, That where the seller previously has obtained the buyer's express consent to an unanticipated delay until a specific date beyond the definite revised shipping date, pursuant to paragraph (b)(1)(iv) or to a further delay until a specific date beyond the definite revised shipping date pursuant to this paragraph (b)(2), that date to which the buyer has expressly consented shall supersede the definite revised shipping date for purposes of this paragraph (b)(2).

[1] Statement of Basis and Purpose filed as part of the original document.

(i) Any offer to the buyer of said renewed option shall provide the buyer with a new definite revised shipping date, but where the seller lacks a reasonable basis for providing a new definite revised shipping date, the notice shall inform the buyer that the seller is unable to make any representation regarding the length of the further delay.

(ii) The offer of a renewed option shall expressly inform the buyer that, unless the seller receives, prior to the expiration of the old definite revised shipping date or any date superseding the old definite revised shipping date, notification from the buyer specifically consenting to the further delay, the buyer will be deemed to have rejected any further delay, and to have cancelled the order if the seller is in fact unable to ship prior to the expiration of the old definite revised shipping date or any date superseding the old definite revised shipping date.

Provided, however, That where the seller offers the buyer the option to consent to an indefinite delay the offer shall expressly inform the buyer that, should he so consent to an indefinite delay, he shall have a continuing right to cancel his order at any time after the old definite revised shipping date or any date superseding the old definite revised shipping date.

(iii) This paragraph (b)(2) shall not apply to any situation where a seller, pursuant to the provisions of paragraph (b)(1)(iv), has previously obtained consent from the buyer to an indefinite extension beyond the first revised shipping date.

(3) Wherever a buyer has the right to exercise any option under this part or to cancel an order by so notifying the seller prior to shipment, to fail to furnish the buyer with adequate means, at the seller's expense, to exercise such option or to notify the seller regarding cancellation. In any action brought by the Federal Trade Commission alleging a violation of this part, the failure of a respondent-seller:

(i) To provide any offer, notice or option required by this part in writing and by first class mail will create a rebuttable presumption that the respondent-seller failed to offer a clear and conspicuous offer, notice or option;

(ii) To provide the buyer with the means in writing (by business reply mail or with postage prepaid by the seller) to exercise any option or to notify the seller regarding a decision to cancel, will create a rebuttable presumption that the respondent-seller did not provide the buyer with adequate means pursuant to this subparagraph (3).

Nothing in paragraph (b) of this part shall prevent a seller, where he is unable to make shipment within the time set forth in paragraph (a)(1) or within a delay period consented to by the buyer, from deciding to consider the order cancelled and providing the buyer with notice of said decision within a reasonable time after he becomes aware of said inability to ship, together with a prompt refund.

(c) To fail to deem an order cancelled and to make a prompt refund to the buyer whenever:

(1) The seller receives, prior to the time of shipment, notification from the buyer cancelling the order pursuant to any option, renewed option or continuing option under this part;

(2) The seller has, pursuant to paragraph (b)(1)(iii), provided the buyer with a definite revised shipping date which is more than thirty (30) days later than the applicable time set forth in paragraph (a)(1) or has notified the buyer that he is unable to make any representation regarding the length of the delay and the seller (i) has not shipped the merchandise within thirty (30) days of the applicable time set forth in paragraph (a)(1), and (ii) has not received the buyer's express consent to said shipping delay within said thirty (30) days;

(3) The seller is unable to ship within the applicable time set forth in paragraph (b)(2), and has not received, within the said applicable time, the buyer's consent to any further delay;

(4) The seller has notified the buyer of his inability to make shipment and has indicated his decision not to ship the merchandise;

(5) The seller fails to offer the option prescribed in paragraph (b)(1) and has not shipped the merchandise within the applicable time set forth in paragraph (a)(1).

(d) In any action brought by the Federal Trade Commission, alleging a violation of this part, the failure of a respondent-seller to have records or other documentary proof establishing his use of systems and procedures which assure compliance, in the ordinary course of business, with any requirement of paragraphs (b) or (c) of this part will create a rebuttable presumption that the seller failed to comply with said requirements.

NOTE 1: This part shall not apply to subscriptions, such as magazine sales, ordered for serial delivery, after the initial shipment is made in compliance with this part.

NOTE 2: This part shall not apply to orders of seeds and growing plants.

NOTE 3: This part shall not apply to orders made on a collect-on-delivery (C.O.D.) basis.

NOTE 4: This part shall not apply to transactions governed by the Federal Trade Commission's Trade Regulation Rule entitled "Use of Negative Option Plans by Sellers in Commerce", 16 CFR 425.

NOTE 5: By taking action in this area, the Federal Trade Commission does not intend to preempt action in the same area, which is not inconsistent with this part, by any State, municipal, or other local government. This part does not annul or diminish any rights or remedies provided to consumers by any State law, municipal ordinance, or other local regulation, insofar as those rights or remedies are equal to or greater than those provided by this part. In addition, this part does not supersede those provisions of any State law, municipal ordinance, or other local regulation which impose obligations or liabilities upon sellers, when sellers subject to this part are not in compliance therewith. This part does supersede those provisions of any State law, municipal ordinance, or other local regulation which are inconsistent with this part to the extent that those provisions do not provide a buyer with rights which are equal to or greater than those rights granted a buyer by this part. This part also supersedes those provisions of any State law, municipal ordinance, or other local regulation requiring that a buyer be notified of a right which is the same as a right provided by this part but requiring that a buyer be given notice of this right in a language, form, or manner which is different in any way from that required by this part.

In those instances where any State law, municipal ordinance, or other local regulation contains provisions, some but not all of which are partially or completely superseded by this part, the provisions or portions of those provisions which have not been superseded retain their full force and effect.

NOTE 6: If any provision of this part or its application to any person, partnership, corporation, act or practice is held invalid, the remainder of this part or the application of the provision to any other person, partnership, corporation, act or practice shall not be affected thereby.

NOTE 7: Section 435.1(a)(1) of this part governs all solicitations where the time of solicitation is more than 100 days after promulgation of this part. The remainder of this part governs all transactions where receipt of a properly completed order occurs more than 100 days after promulgation of this part.

§ 435.2 Definitions.

For purposes of this part:

(a) "Shipment" shall mean the act by which the merchandise is physically placed in the possession of the carrier.

(b) "Receipt of a properly completed order" shall mean:

(1) Where there is a credit sale and the buyer has not previously tendered partial payment, the time at which the seller charges the buyer's account;

(2) Where the buyer tenders full or partial payment in the proper amount in the form of cash, check or money order, the time at which the seller has received both said payment and an order from the buyer containing all the information needed by the seller to process and ship the order.

Provided, however, That where the seller receives notice that the check or money order tendered by the buyer has been dishonored or that the buyer does not qualify for a credit sale, "receipt of a properly completed order" shall mean the time at which (i) the seller receives notice that a check or money order for the proper amount tendered by the buyer has been honored, (ii) the buyer tenders cash in the proper amount or (iii) the seller receives notice that the buyer qualifies for a credit sale.

(c) "Refund" shall mean:

(1) Where the buyer tendered full payment for the unshipped merchandise in the form of cash, check or money order, a return of the amount tendered in the form of cash, check or money order;

(2) Where there is a credit sale:

(i) And the seller is a creditor, a copy of a credit memorandum or the like or an account statement reflecting the removal or absence of any remaining charge in-

curred as a result of the sale from the buyer's account;

(ii) And a third party is the creditor, a copy of an appropriate credit memorandum or the like to the third party creditor which will remove the charge from the buyer's account or a statement from the seller acknowledging the cancellation of the order and representing that he has not taken any action regarding the order which will result in a charge to the buyer's account with the third party;

(iii) And the buyer tendered partial payment for the unshipped merchandise in the form of cash, check or money order, a return of the amount tendered in the form of cash, check or money order.

(d) "Prompt refund" shall mean:

(1) Where a refund is made pursuant to Definition (c) (1) or (2) (iii) a refund sent to the buyer by first class mail within seven (7) working days of the date on which the buyer's right to refund vests under the provisions of this part;

(2) Where a refund is made pursuant to Definition (c) (2) (i) or (ii), a refund sent to the buyer by first class mail within one (1) billing cycle from the date on which the buyer's right to refund vests under the provisions of this part.

(e) The "time of solicitation" of an order shall mean that time when the seller has:

(1) Mailed or otherwise disseminated the solicitation to a prospective purchaser,

(2) Made arrangements for an advertisement containing the solicitation to appear in a newspaper, magazine or the like or on radio or television which cannot be changed or cancelled without incurring substantial expense, or

(3) Made arrangements for the printing of a catalog, brochure or the like which cannot be changed without incurring substantial expense, in which the solicitation in question forms an insubstantial part.

Effective: February 2, 1976.

Promulgated October 22, 1975, by the Federal Trade Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-28203 Filed 10-21-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 22, 1975



PART III:

ENVIRONMENTAL PROTECTION AGENCY

NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

■

Control of Air Pollution

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 85]

[FRL 437-7]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Emission Regulations for New Motorcycles

Notice is hereby given that the Environmental Protection Agency is considering the addition of a new Subpart E to Part 85 of Title 40 of the Code of Federal Regulations.

On Thursday, January 17, 1974 the EPA published in the FEDERAL REGISTER an advance notice of proposed rule making (ANPRM) which outlined the Agency's intention to establish emission regulations for new motorcycles. The ANPRM was the result of the EPA's recognition of the significant impact of motorcycles on urban air quality, the projected increase of this impact in the future, and the comparison of motorcycles with other vehicles serving a similar transportation function which meet emission control requirements.

Exhaust and crankcase emission standards were proposed in the ANPRM at the following levels for the 1976 through 1978 model years: 5.0 grams per kilometer (g/km) for hydrocarbons, 17 g/km for carbon monoxide, and 1.2 g/km for oxides of nitrogen. The ANPRM also proposed a crankcase emission standard beginning with the 1976 model year. Motorcycle standards for 1979 and beyond were proposed at the same levels as the statutory emission standards for light duty vehicles. The ANPRM further indicated that the procedures for motorcycle emission testing would evolve from current light duty vehicle regulations.

Comments were solicited in the ANPRM on specific technical areas to aid the EPA in the preparation of the emission regulations. Motorcycle manufacturers, industry organizations and suppliers, emission testing organizations, and citizen groups responded extensively with data and other material to the EPA. The analysis of these comments and EPA experimental work have formed the basis of these proposed regulations.

With this notice of proposed rule making (NPRM), the EPA proposes the motorcycle emission regulations more definitively while seeking additional comments.

Emission Standards—Comments to the ANPRM were in very close agreement on the carbon monoxide and nitrogen oxides emission standards during the initial regulatory period. It was the general consensus of the commenters that standards of 17 grams per kilometer of carbon monoxide and 1.2 grams per kilometer of nitrogen oxides could be met in the near term by both two and four-stroke motorcycles regardless of engine size. However, no such agreement existed on the hydrocarbon interim standard. The EPA analyzed many different approaches before deciding upon the one which would obtain the maximum hydrocarbon reduction possible in the short term and allow an orderly development of emission control technology for the long term.

The EPA is proposing a displacement dependent hydrocarbon phase-in standard with emission levels proportional to engine displacement. The standard begins at 5.0 grams per kilometer for motorcycles of 170 cc engine displacement and less, and rises linearly with displacement to 14 grams per kilometer for 750 cc motorcycles. The standard then remains constant at 14 grams per kilometer for motorcycles over 750 cc displacement. This displacement dependent standard is applicable to two and four-stroke cycle reciprocating engines as well as all rotary engines.

The 1980 and subsequent model year standards proposed in this notice are 0.25 grams per kilometer (g/km) for hydrocarbons, 2.1 g/km for carbon monoxide and 0.25 g/km for oxides of nitrogen. (The grams per mile equivalents are 0.41, 3.4 and 0.4 respectively.) This is not intended to imply an agency determination that these levels of control are cost effective, technologically feasible or fully in the public interest. Rather, these levels are being proposed because they are equivalent to the light duty vehicle standards for 1980 and subsequent model years as currently set forth in the Clean Air Act, and on the premise that all vehicles used for public transportation should, to the extent feasible, be controlled to the same levels of allowable emissions of air pollutants. However, the levels of motorcycle standards ultimately to be promulgated for 1980 will be dependent upon the technical feasibility of attaining control to automobile emission levels, the cost-effectiveness of control to such levels, and the outcome of current Congressional reconsideration affecting future year emission standards for automobiles. Thus, it is intended that the ultimate levels of motorcycle control be equivalent to light duty control, unless data developed during and as a result of this proceeding indicate that such control is not feasible due to technological or cost restraints.

It is important to note that the displacement dependent hydrocarbon phase-in standard is considered a temporary compromise necessary for short term emission reductions while allowing long term control technology development and that the long term standards will not be based upon engine displacement.

The EPA is proposing a crankcase emission standard with certification based on engineering analysis rather than system testing. All motorcycle manufacturers of four-stroke cycle engines who responded to the ANPRM were in agreement with this standard; their major concern was with its implementation date. Those manufacturers who commented on the ANPRM agreed that the standard could be met by 1978. As discussed below, the EPA is proposing to implement this standard concurrently with the phase-in emission standards in 1978.

Implementation Dates—The implementation dates for these two sets of standards have been changed from those in the ANPRM. The new dates are January 1, 1978 for the phase-in and crankcase emission standards and January 1, 1980 for the long term standards. The change is due to lead time considerations for the implementation of control technology by the manufacturers and the regulatory process by the EPA. In addition, the terminology for implementation has been changed from "model year" to "year of production". Many manufacturers requested such a change to more accurately represent the typical motorcycle manufacturing process. Thus, these standards apply only to those new motorcycles produced on or after January 1, 1978 or 1980, as appropriate, independent of the manufacturer's model year designation.

Applicability—The proposed emission regulations are applicable to those new motorcycles manufactured for street or highway use except those with engine displacements less than 50 cc. Under the Clean Air Act, the EPA does not have the authority to prescribe standards for vehicles not designed for use on streets or highways.

As requested by some manufacturers, consideration has been given to raising the displacement exception for the phase-in standards to 100 cc or 170 cc. However, since uncontrolled two-stroke motorcycles with engine displacements between 50 cc and 170 cc emit hydrocarbon emissions above 5.0 grams per kilometer, significant emission reductions will result if these motorcycles meet a standard of 5.0 grams per kilometer. Therefore, the displacement exception to these standards remains at less than 50 cc.

Dynamometer Driving Schedules—Practically all motorcycle manufacturers who responded to the ANPRM consider the EPA urban dynamometer driving schedule satisfactory for large displacement motorcycles (engine displacements equal to or greater than 170 cc). However, the dynamometer driving schedule for small displacement motorcycles continues to be an area of concern to both the EPA and the manufacturers. Since the comments to the ANPRM did not provide substantial data which would allow development of a new driving schedule for small displacement motorcycles, the EPA is proposing a modified urban dynamometer driving schedule for motorcycles with engine displacements less than 170 cc. This modified schedule scales down the velocities of the high speed portion of the EPA urban dynamometer driving schedule (from second 164 to second 332) by the factor 0.64.

Dynamometer Driving Distance—The proposed procedure for calculating motorcycle weighted emissions is a modified form of the light duty method. The proposed procedure uses the actual test driving distance, as measured by a dynamometer roll revolution counter, for calculating the grams per kilometer emissions. During EPA testing of motorcycles capable of following the driving schedule, variations in the measured driving distance of up to 3 percent of the standard distance have been observed. The new procedure, which accounts for dis-

tance variations, will reduce variability in the calculated emissions. For motorcycles not capable of following the driving schedule, the proposed procedure will also result in more representative calculated emissions.

Chassis Dynamometers for Distance Accumulation—The EPA recognizes the need of some motorcycle manufacturers to use chassis dynamometers for distance accumulation. The EPA will communicate any special test procedures or requirements in Advisory Circular format similar to the Advisory Circular issued for light duty vehicles. Such requirements will be intended to duplicate the conditons a motorcycle experiences when accumulating distance on a road or track. Specific detailed comments are solicited on the manner in which these requirements for motorcycles should differ from those in practice for light duty vehicles (reference: MSAPC Advisory Circular number 35), including the use of indoor dynamometers for distance accumulation.

Road Load Power Absorption—The equation for road load power absorption specified in this NPRM is based on EPA in-house experimental track testing using the coast down timing method. Additional work is planned by the EPA in this area to confirm or modify these numbers as appropriate.

Heated Flame Ionization Detector (HFID)—The ANPRM revealed that the EPA was considering the use of a heated flame ionization detector for measurement of hydrocarbon emissions. Based on the comments received to the ANPRM and further analysis of the HFID test method, the EPA is now proposing to use a "non-heated" flame ionization detector for hydrocarbon emission measurement. Further studies will be performed to determine if HFID measurements are required, and if necessary, appropriate procedures for motorcycles will be developed.

Oil Accumulation—EPA in-house testing has revealed the accumulation of oil on the walls of the tubing used to transport exhaust gases to the constant volume sampling system and in parts of the dilution air filter assembly. This potential problem also has been reported by other testing facilities. It is hypothesized that two-stroke engine oil is collecting in the sampling system during testing. Since the buildup of this oil could result in erroneous hydrocarbon emission measurements, comments are solicited on the causes and potential magnitude of this problem and methods, such as system cleaning or heating, of alleviating it.

Constant Volume Sampler—The EPA is planning to investigate the use of a critical flow venturi constant volume sampler (CFV-CVS) for motorcycle emission measurements instead of a positive displacement pump constant volume sampler (PDP-CVS) as is proposed in this notice. A diagram of the CFV-CVS is presented in Figure 1. It is intended that even if the CFV-CVS is adopted for use in EPA testing, its use by manufacturers will be an optional alternative to the PDP-CVS.

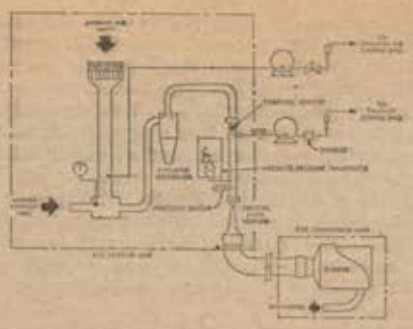


Figure 1

Critical Flow Venturi Constant Volume Sampler

Transmission Shift Points—Most manufacturers who responded to the ANPBM did not agree with basing manual transmission shift points on a percentage of engine RPM. Upon careful reconsideration, the EPA is proposing to base shift points on vehicle speed as is done currently for light duty vehicles. The values specified in this NPBM are based on EPA in-house testing. However, the EPA also is proposing to allow manufacturers the option of using their own recommended vehicle shift speeds for testing purposes.

Standard Rider Mass—Most manufacturers indicated that approximately 80 kilograms (176 pounds) should be used as a standard rider mass for testing purposes. The EPA is again proposing an 80 kilogram rider mass based on the results of the Gallup Motorcycle Survey as well as earlier demographic studies. The Gallup survey indicated that the average weight of a motorcycle owner is 164 pounds. When considering the addition of normal motorcycle riding apparel, the EPA considers an 80 kilogram rider mass appropriate for testing purposes.

Soak Time—The EPA has obtained overnight cool down temperature versus time data on a variety of motorcycles. As expected, the data indicate that a Harley-Davidson FL-1200 required the longest cool down time of any motorcycle tested by the EPA. This motorcycle required a minimum soak time of 10 to 11 hours for the engine temperature to be within 1° C of the ambient soaking temperature. In order that the soak time be sufficient to permit all types and sizes of motorcycles to cool to the ambient soaking temperature, the EPA is proposing that the light duty vehicle 12 hour soak requirement be extended to the motorcycle test procedure.

Certification Program—The proposed certification program involves emission testing of preproduction motorcycles in order to determine whether the designs of the engine-emission control systems are capable of meeting the standards. An approach similar to that used for evaluation of the design of light duty vehicles is being adopted for motorcycles. In this approach, test vehicles are selected to represent vehicles which are expected to have similar emission characteristics. A number of motorcycles (emission data vehicles) is tested after break-in at low mileage and a smaller number of motorcycles (durability data vehicles) is tested at a sequence of test points throughout a distance accumulation period equal to their useful life. The deterioration factors (degree of emission deterioration) determined for each of the latter vehicles are used to project the deterioration of emission control that can be expected over the useful life of emission data vehicles with similar design characteristics. Test results from emission data vehicles, adjusted by the applicable deterioration factors, are compared to the level of the standard to determine compliance.

The EPA has considered the possibility of reducing in certain instances the number of test vehicles otherwise required in the proposed regulations. The following was considered: (1) The cost of certifying an engine family (group of engines with similar emission characteristics) tends to be independent of the number of unit sales; thus the certification cost per vehicle produced obviously is higher if the volume of sales is small; because of that, the cost of certification impacts more heavily on manufacturers with low volume annual sales than it does on manufacturers with high volume annual sales. (2) The aggregate annual sales of all motorcycle manufacturers of less than 10,000 annual motorcycle sales represent only five percent of the total number of new motorcycles sold annually. Out of thirty-five motorcycle manufacturers known to EPA, there are only six with greater than 10,000 annual motorcycle sales. (3) The cost of testing and accumulating distance on durability vehicles represents the greater portion of the cost to manufacturers of certification.

Due to these considerations, EPA is proposing that, subject to prior approval by the Administrator, manufacturers with annual sales of less than 10,000 motorcycles may utilize deterioration factors specified by EPA rather than develop deterioration factors through the operation of durability vehicles and may also be granted a reduction in the number of emission data vehicles otherwise required by the regulations. Any adverse impact on the precision of the evaluation of the capability of the design to meet standards will be greatly mitigated by the relatively low impact on air quality of so small a fraction of all motorcycles.

EPA is also considering providing manufacturers of greater than 10,000 annual sales with the option of using deterioration factors specified by EPA for engine families projected to have low volume sales. To aid EPA in reaching a decision on this matter, interested manufacturers are requested to provide EPA with 1974 and 1975 sales data tabulated for motorcycles with the same number of cylinders, engine displacement, and engine type (i.e., two-stroke, four-stroke). Interested parties are requested to provide any data or comments bearing

on whether or not EPA should pursue such a course.

The EPA is also interested in any data and/or considerations the manufacturers may have regarding whether EPA should specify a single average deterioration factor applicable to all motorcycle engine families eligible for and using this option, specify separate deterioration factors for each engine family, or use some other approach. In addition, the EPA is interested in learning whatever information manufacturers would be able to provide concerning the durability aspects of their motorcycles, their components, and emission control hardware, in support of a request for use of deterioration factors specified by EPA in lieu of operating durability vehicles.

Useful Life—The useful life distance for motorcycle durability testing is defined as the average distance a motorcycle may be expected to travel in its lifetime. Based on the Gallup Motorcycle Survey results and registration data, the useful life distance has been calculated to be 30,000 kilometers for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.) and 12,000 kilometers for displacements less than 170 cc (10.4 cu. in.).

Maintenance—The intent of the maintenance schedule for certification vehicles is to duplicate average consumer practice. The only substantial data received by the EPA on consumer maintenance practices for motorcycles are from the survey performed by the Gallup Organization. The values for the frequency of scheduled maintenance on certification vehicles specified in this NPRM are based upon these data. Although the allowable maintenance specified in this NPRM does not permit maintenance or repairs which involve access to the combustion chamber (cylinder head decarbonization, valve repairs, etc.), the EPA is interested in exploring the in use frequency of such maintenance and repairs in greater detail. It is therefore requested that interested parties submit detailed information on the frequency of cylinder head decarbonization and on the probability that major engine repair will be required within the durability distance. Information on the effects of cylinder head decarbonization and major engine repairs on emissions is also solicited.

Engine Families—The comments to the ANPRM indicated that many of the test vehicle parameters used for determining light duty vehicle engine families were inappropriate for classifying motorcycles. The EPA agrees with this and is specifying test vehicle parameters which are intended to group motorcycles with similar emission characteristics into separate engine families. In addition, the selection of motorcycle durability and emission data vehicles has been changed slightly from the criteria used for light duty vehicles to more accurately represent motorcycle engine families.

The ANPRM indicated that the motorcycle emission regulations would be drafted as an evolution of the current light duty gasoline and diesel regulations. Upon careful examination, certain variations of the regulatory language between the proposed motorcycle regulations and the light duty vehicle regulations may be noted. These differences resulted from an effort to modify certain statements which have proven, through experience, to be in need of clarification or simplification. As such, most of these changes do not alter the intent of the regulations or current practice for light duty gasoline and diesel vehicles, but some changes have been made to accommodate the unique requirements of motorcycles.

An essential ingredient in the establishment of the motorcycle regulations is cost information. Data in the past have been minimal in this area; thus, the EPA is seeking detailed submittals from interested parties on the costs and savings associated with the motorcycle emission regulations. In order to expedite the analysis and review of this information, the EPA suggests that comments address the following points for each motorcycle model: (a) production year, (b) engine type and displacement, (c) proposed emission control system, and (d) exhaust emission level. Information addressing the following items is requested for each separate combination of (a) through (d) above. In addition, base line information for each model is requested for comparison purposes.

(1) *First Cost Estimates:*

(a) A separate description of each component of the control system such as modified carburetors, improved engine cooling details, new ignition system, PCV system, etc.

(b) The cost of each component or modification itemizing materials, labor, overhead, and general and administrative costs.

(c) Tooling amortization costs including the time period over which amortization is assumed.

(d) Total dealer margin costs and total profit.

(e) The pre-tax list price.

(f) The expected range of state and/or local taxes.

(g) The selling price.

(h) Base line—1975 total price averaged for the model.

(2) *Maintenance Cost Estimates:*

(a) A description of each separate maintenance item (PCV system, air pump, etc.) including all pre-emission control maintenance (spark plugs, ignition system, etc.).

(b) Customer cost of replacement parts impacted by emission controls specifying markup as well as dealer cost and markup.

(c) The required number of hours for maintenance of emission control systems, i.e.: number of man-hours in a "flat rate" manual.

(d) Customer labor cost including markup.

(e) The number of times maintenance is performed during the vehicle's lifetime.

(f) Base line—the above cost information for all 1975 recommended maintenance for the model, as indicated in the owner's manual.

(3) *Fuel Cost Estimates:*

(a) Urban and highway fuel economy data with an indication of the test procedures used.

(b) Base line—the same data for the 1975 model.

Interested persons may participate in the rule making proceeding by submitting written comments to the Deputy Assistant Administrator, Office of Mobile Source Air Pollution Control (AW-455), 401 M Street, S.W., Washington, D.C. 20460. It is requested but not required that 10 copies be submitted.

Single copies of the draft Environmental Impact Statement (EIS) for this regulation are available upon request from the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Reflected in the draft EIS is an evaluation of the inflationary impact of the regulation which has been prepared in accordance with Executive Order 11821 (39 FR 41501, November 29, 1974).

All comments received on or before January 20, 1975 before the close of business on (90 days from date of publication) will be considered. To the extent possible, comments filed after the closing date will also be considered. Comments received pursuant to this proposal 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.

Final regulations, modified as the Administrator deems appropriate after consideration of comments to the NPRM, will be promulgated as soon as practicable after such consideration.

This notice of proposed rule making is issued under the authority of sections 202, 206, 207, 208 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f-1, 1857f-5, 1857f-5a, 1857f-6, 1857g(a)).

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.

Dated: October 14, 1975.

JOHN QUARLES,
Administrator.

PART 85—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Subpart E—Emission Regulations for New Motorcycles

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Subpart E—Emission Regulations for New Motorcycles

§ 85.401 General applicability.

The provisions of this subpart are applicable to new motorcycles except motorcycles with engine displacements less than 50 cc (3.1 cu. in.).

§ 85.402 Definitions.

(a) As used in this subpart, all terms not defined herein shall have the meaning given them in the Act:

(1) "Act" means Part A of title II of the Clean Air Act, 42 U.S.C. 1857 f-1 through f-7, as amended by Pub. L. 91-604.

(2) "Administrator" means the Administrator of the Environmental Protection Agency or his authorized representative.

(3) "Year of production" means the manufacturer's production period (as determined by the Administrator) which includes January 1 of such year and ends no later than December 31 of such year.

(4) "Motorcycle" means any motor vehicle designed to operate on not more than three wheels (including any tricycle arrangement) in contact with the ground which is not a passenger car or passenger car derivative.

(5) "Vehicle curb mass" means the actual or the manufacturer's estimated mass of the vehicle in operational status with all standard equipment and mass of fuel at nominal tank capacity and the mass of any optional equipment on the vehicle.

(6) "Loaded vehicle mass" means the vehicle curb mass of a motorcycle plus 80 kg (176 lb).

(7) "System" includes any motor vehicle modification which controls or causes the reduction of substances emitted from motor vehicles.

(8) "Engine family" means the basic classification unit of a manufacturer's product line used for the purpose of test fleet selection and determined in accordance with § 85.4XX-5(a).[1]

(9) "Engine-system combination" means an engine family-emission control system combination.

(10) "Fuel system" means the combination of fuel tank, fuel pump, fuel lines, oil injection metering system, and carburetor or fuel injection components, and includes all fuel system vents.

(11) "Crankcase emissions" means airborne substances emitted to the atmosphere from any portion of the engine crankcase ventilation or lubrication systems.

(12) "Exhaust emissions" means substances emitted to the atmosphere from any opening downstream from the exhaust port of a motor vehicle engine.

(13) "Engine - system - displacement combination" means an engine family-emission control system-engine displacement combination.

(14) "Zero (0) kilometers (miles)" means that point after initial engine starting (not to exceed 10 km (6.2 mi) of vehicle operation, or one hour of engine operation) at which normal assembly line operations and adjustments are completed.

(15) "Calibrating gas" means a gas of known concentration which is used to establish the response curve of an analyzer.

(16) "Span gas" means a gas of known concentration which is used routinely to set the output level of an analyzer.

(17) "Oxides of nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

(18) "Useful life" means, for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), a period of use of 30,000 km (18,641 mi). For vehicles with engine displacements less than 170 cc (10.4 cu. in.), "useful life" means a period of use of 12,000 km (7456 mi).

(19) "Scheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed on a periodic basis to prevent part failure or vehicle malfunction.

(20) "Unscheduled maintenance" means any adjustment, repair, removal, disassembly, cleaning, or replacement of vehicle components or systems which is performed to correct or diagnose a part failure or vehicle malfunction.

(21) "EPA Enforcement Officer" means any officer or employee of the Environmental Protection Agency so designated in writing by the Administrator (or by his designee).

(22) "Auxiliary emission control device" means any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.

(23) "Defeat device" means an AECD that reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal urban vehicle operation and use, unless (1) such conditions are substantially included in the Federal emission test procedure, or (2) the need for the AECD is justified in terms of protecting the vehicle against damage or accident, or (3) the AECD does not go beyond the requirements of engine starting or warm-up.

(24) As applied to any individual production vehicle, "Conforms, in all material respects, to the design specifications that applied to those vehicles described in the application for certification" means that the description in the appropriate application for certification of the parameters and specifications enumerated in Appendix VIIa is accurate in all respects as applied to that vehicle.

§ 85.403 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lowercase:

Accel.—Acceleration.
AECD—Auxiliary emission control device.
ASTM—American Society for Testing and Materials.
CC—Cubic centimeter(s).
Cfh—Cubic feet per hour.
Cfm—Cubic feet per minute.
Cm—Centimeter(s).
CO—Carbon monoxide.
CO_2—Carbon dioxide.
Conc—Concentration.
Cu.—Cubic.
CVS—Constant volume sampler.
C—Celsius.
Decel.—Deceleration.
EGR—Exhaust gas recirculation.
EP—End point.
EPA—Environmental Protection Agency.
F—Fahrenheit.
Ft—Feet.
Gal—U.S. gallon(s).
G—Gram(s).
GVM—Gross vehicle mass.
HC—Hydrocarbon(s).
Hg—Mercury.
Hi.—High.
H_2O—Water.
HP—Horsepower.
Hr—Hour(s).
ID—Internal diameter.
In.—Inch(es).
K—Kelvin.
Kg—Kilogram(s).
Km—Kilometer(s).
KPa—Kilopascals.
K.p.h.—Kilometers per hour.
L—Liter(s).
Lb—Pound(s).
Lb-ft—Pound-feet.

[1] Normally, the two characters after the period and subpart number are the last two digits of the year of production to which the regulations apply. Since this paragraph number applies to all years of production, the character XX have been substituted for the last two digits of the year of production.

M—Meter(s).
Mi—Mile(s).
Min—Minute(s).
Ml—Milliliter(s).
M.p.h.—Miles per hour.
Mm—Millimeter(s).
Mol—Molecular.
Mv—Millivolt(s).
N—Newton(s).
Nm—Newton-meter(s).
N2—Nitrogen.
NO—Nitric oxide.
NO2—Nitrogen dioxide.
NOx—Oxides of nitrogen.
No.—Number.
N/V—Engine RPM divided by vehicle speed in k.p.h. (m.p.h.) in highest gear.
O2—Oxygen.
Pa—Pascal(s).
Pb—lead.
PCV—Positive crankcase ventilation.
Ppm—Parts per million by volume.
Psi—Pounds per square inch.
Psig—Pounds per square inch gauge.
R—Rankine.
Rev—Revolution(s).
RPM—Revolutions per minute.
S.A.E.—Society of Automotive Engineers.
S—Second(s).
Sp.—Speed.
Sq.—Square.
SS—Stainless steel.
TEL—Tetraethyl lead.
TML—Tetramethyl lead.
V—Volt(s).
Vs.—Versus.
WOT—Wide open throttle.
Wt.—Weight.
°—Degree(s).
%—Percent.

§ 85.404 General standards; increase in emissions; unsafe conditions.

(a)(1) Every new motorcycle manufactured for sale, sold, offered for sale, introduced or delivered for introduction into commerce, or imported into the United States for sale or resale which is subject to any of the standards prescribed in this subpart shall be covered by a certificate of conformity issued pursuant to §§ 85.4XX–2 through 85.4XX–4 and §§ 85.4XX–29 through 85.4XX–34 of this subpart.

(b)(1) Any system installed on or incorporated in a new motorcycle to enable such vehicle to conform to standards imposed by this subpart;

(i) Shall not in its operation or function cause the emission into the ambient air of any noxious or toxic substance that would not be emitted in the operation of such vehicle without such system, except as specifically permitted by regulation; and

(ii) Shall not in its operation, function, or malfunction result in any unsafe condition endangering the motorcycle, its riders, or persons or property in close proximity to the vehicle.

(2) Every manufacturer of new motorcycles subject to any of the standards imposed by this subpart shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motorcycles in accordance with good engineering practice to ascertain that such test vehicles will meet the requirements of this section for the useful life of the vehicle.

§ 85.405 Hearings on certification.

(a)(1) After granting a request for a hearing under §§ 85.4XX–3 or 85.4XX–30, the Administrator will designate a Presiding Officer for the hearing.

(2) The General Counsel will represent the Environmental Protection Agency in any hearing under this section.

(3) If a time and place for the hearing have not been fixed by the Administrator under §§ 85.4XX–3 or 85.4XX–30, the hearing shall be held as soon as practicable at a time and place fixed by the Administrator or by the Presiding Officer.

(4) In the case of any hearing requested pursuant to § 85.4XX–30(b)(4)(i), the Administrator may in his discretion direct that all argument and presentation of evidence be concluded within such fixed period not less than 30 days as he may establish from the date that the first written offer of a hearing is made to the manufacturer. To expedite proceedings, the Administrator may direct that the decision of the Presiding Officer (who may, but need not be the Administrator himself) shall be the final EPA decision.

(b)(1) Upon his appointment pursuant to paragraph (a) of this section, the Presiding Officer will establish a hearing file. The file shall consist of the notice issued by the Administrator under §§ 85.4XX–3 or 85.4XX–30, together with any accompanying material, the request for a hearing and the supporting data submitted therewith and all documents relating to the request for certification and all documents submitted therewith, and correspondence and other data material to the hearing.

(2) The appeal file will be available for inspection by the applicant at the office of the Presiding Officer.

(c) An applicant may appear in person, or may be represented by counsel or by any other duly authorized representative.

(d)(1) The Presiding Officer upon the request of any party, or in his discretion, may arrange for a prehearing conference at a time and place specified by him to consider the following:

(i) Simplification of the issues;

(ii) Stipulations, admissions of fact, and the introduction of documents;

(iii) Limitation of the number of expert witnesses;

(iv) Possibility of agreement disposing of all or any of the issues in dispute;

(v) Such other matters as may aid in the disposition of the hearing, including such additional tests as may be agreed upon by the parties.

(2) The results of the conference shall be reduced to writing by the Presiding Officer and made part of the record.

(e)(1) Hearings shall be conducted by the Presiding Officer in an informal but orderly and expeditious manner. The parties may offer oral or written evidence, subject to the exclusion by the Presiding Officer of irrelevant, immaterial and repetitious evidence.

(2) Witnesses will not be required to testify under oath. However, the Presiding Officer shall call to the attention of witnesses that their statements may be subject to the provisions of title 18 U.S.C. 1001 which imposes penalties for knowingly making false statements or representations, or using false documents in any matter within the jurisdiction of any department or agency of the United States.

(3) Any witness may be examined or cross-examined by the Presiding Officer, the parties, or their representatives.

(4) Hearings shall be reported vebatim. Copies of transcripts of proceedings may be purchased by the applicant from the reporter.

(5) All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the Presiding Officer of their authenticity, relevancy, and materiality, be received in evidence and shall constitute a part of the record.

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him.

(f)(1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefore on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 20 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefore on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

§ 85.406 Maintenance of records; submittal of information; right of entry.

(a) The manufacturer of any new motorcycle subject to any of the standards or procedures prescribed in this subpart shall establish, maintain and retain the following adequately organized and indexed records:

(1) *General records.* (i)(A) Identification and description of all certification vehicles for which testing is required under this subpart.

(B) A description of all emission control systems which are installed on or incorporated in each certification vehicle.

(C) A description of all procedures used to test each such certification vehicle.

(ii) A properly filed application for certification, following the format prescribed by the U.S. EPA for the appropriate year of production, fulfills each of the requirements of this paragraph (a)(1).

(2) *Individual records.* (i) A brief history of each motorcycle used for certification under this subpart in the form of a separate booklet or other document for each separate vehicle in which shall be recorded:

(A) In the case where a current production engine is modified for use in a certification vehicle, a description of the process by which the engine was selected and of the modifications made, giving specifically the place of modification and installation of the engine into the certification vehicle and the person(s) in charge of modification and installation. In the case where the engine for a certification vehicle is not derived from a current production engine, a general description of the buildup of the engine (e.g., experimental heads were cast and machined according to supplied drawings, etc.) giving specifically the place of engine assembly and installation into a certification vehicle and the person(s) in charge of engine assembly and installation. In both cases above, a description of the origin and selection process for the carburetor, fuel system, emission control system components, and exhaust after treatment device shall be included. The required descriptions shall specify the steps taken to assure that the certification vehicle with respect to its engine, drive train, fuel system, emission control system components, exhaust after treatment device, mass or any other device or component that can reasonably be expected to influence exhaust emissions will be representative of production vehicles and that either all components and/or vehicle construction processes, component inspection and selection techniques, and assembly techniques employed in constructing such vehicles are reasonably likely to be implemented for production vehicles or that they are as closely analogous as practicable to planned construction and assembly processes.

(B) A complete record of all emission tests performed under §§ 85.4XX–9 through 85.4XX–27 (except tests performed by EPA directly), including all individual worksheets and/or other documentation relating to each such test, or exact copies thereof; the date, time, purpose, and location of each test; the distance accumulated on the vehicle when the test began and ended; and the names of supervisory personnel responsible for the conduct of the test.

(C) The date and times of each distance accumulation run, listing both the distance accumulated and the name of each rider or each operator of the automatic distance accumulation device.

(D) If used, the record of any devices employed to record the speed and/or distance in relationship to time of the test vehicle.

(E) A record and description of all maintenance and other servicing performed, giving the date and time of the maintenance or service, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the maintenance or service. The description shall indicate whether or not EPA specifically consented to the work and, if EPA did not, shall list the provision of this subpart which authorizes its performance.

(F) A record and description of each test performed to diagnose engine or emissions control system performance, giving the date and time of the test, the reason for it, the person authorizing it, and the names of supervisory personnel responsible for the conduct of the test.

(G) The dates and times that the vehicle was idle in storage, and in transit or transport.

(H) A brief description of any significant events affecting the vehicle during any time in the period covered by the history not described by an entry under one of the previous headings including such extraordinary events as vehicle accidents or rider speeding citations or warnings.

(ii) Each such history shall be started on the date that the first of any of the selection or build up activities in paragraph (a)(2)(i)(a) of this section occurred with respect to the certification vehicle, shall be updated each time the operational status of the vehicle changes or additional work is done on it, and shall be kept in a designated location.

(3) All records required to be maintained under this subpart shall be retained by the manufacturer for a period of six (6) years after issuance of all certificates of conformity to which they relate. Records may be retained as hard copy or reduced to microfilm, punch cards, etc., depending on the record retention procedures of the manufacturer: *Provided*, That in every case all the information contained in the hard copy shall be retained.

(b) The manufacturer of any new motorcycle subject to any of the standards prescribed in this subpart shall submit to the Administrator at the time of issuance by the manufacturer copies of all instructions or explanations regarding the use, repair, adjustment, maintenance, or testing of such vehicle relevant to the control of crankcase or exhaust emissions, issued by the manufacturer for use by other manufacturers, assembly plants, distributors, dealers, and ultimate purchasers: Provided, That any material not translated into the English language need not be submitted unless specifically requested by the Administrator.

(c)(1) Any manufacturer who has applied for certification of a new motorcycle subject to certification tests under this subpart shall admit or cause to be admitted any EPA Enforcement Officer during operating hours on presentation of credentials to any of the following:

(i) Any facility where any such tests or any procedures or activities connected with such tests are or were performed.

(ii) Any facility where any new motorcycle which is being, was, or is to be tested is present.

(iii) Any facility where any construction process or assembly process used in the modification or build up of such a vehicle into a certification vehicle is taking place or has taken place.

(iv) Any facility where any record or other document relating to any of the above is located.

(2) Upon admission to any facility referred to in paragraph (c)(1) of this section, any EPA Enforcement Officer shall be allowed:

(i) To inspect and monitor any part or aspect of such procedures, activities, and testing facilities, including, but not limited to, monitoring vehicle preconditioning, emissions tests and distance accumulation, maintenance, and vehicle soak and storage procedures; and to verify correlation or calibration of test equipment;

(ii) To inspect and make copies of any such records, designs, or other documents; and

(iii) To inspect and/or photograph any part or aspect of any such certification vehicle and any components to be used in the construction thereof.

(3) In order to allow the Administrator to determine whether or not production motorcycles conform in all material respects to the design specifications which applied to those vehicles described in the application for certification for which a certificate of conformity has been issued and to standards prescribed under section 202 of the Act, any manufacturer shall admit any EPA Enforcement Officer on presentation of credentials to both:

(i) Any facility where any document, design, or procedure relating to the translation of the design and construction of engines and emission related components described in the application for certification or used for certification testing into production vehicles is located or carried on; and

(ii) Any facility where any motorcycles to be introduced into commerce are manufactured or assembled.

(4) On admission to any such facility referred to in paragraph (c)(3) of this section, any EPA Enforcement Officer shall be allowed:

(i) To inspect and monitor any aspects of such manufacture or assembly and other procedures;

(ii) To inspect and make copies of any such records, documents or designs; and

(iii) To inspect and photograph any part or aspect of any such new motorcycles and any component used in the assembly thereof that are reasonably related to the purpose of his entry.

(5) Any EPA Enforcement Officer shall be furnished by those in charge of a facility being inspected with such reasonable assistance as he may request to help him discharge any function listed in this paragraph. Each applicant for or recipient of certification is required to cause those in charge of a facility operated for its benefit to furnish such reasonable assistance without charge to EPA whether or not the applicant controls the facility.

(6) The duty to admit or cause to be admitted any EPA Enforcement Officer applies whether or not the applicant owns or controls the facility in question and applies both to domestic and to foreign manufacturers and facilities. EPA will not attempt to make any inspections which it has been informed that local law forbids. However, if local law makes it impossible to do what is necessary to insure the accuracy of data generated

at a facility, no informed judgment that a vehicle or engine is certifiable or is covered by a certificate can properly be based on that data. It is the responsibility of the manufacturer to locate its testing and manufacturing facilities in jurisdictions where this situation will not arise.

(7) For purposes of this paragraph:

(i) "Presentation of credentials" shall mean display of the document designating a person as an EPA Enforcement Officer.

(ii) Where vehicle, component, or engine storage areas or facilities are concerned, "operating hours" shall mean all times during which personnel other than custodial personnel are at work in the vicinity of the area or facility and have access to it.

(iii) Where facilities or areas other than those covered by paragraph (c)(7)(ii) of this section are concerned, "operating hours" shall mean all times during which an assembly line is in operation or all times during which testing, maintenance, distance accumulation, production or compilation of records, or any other procedure or activity related to certification testing, to translation of designs from the test stage to the production stage, or to vehicle manufacture or assembly is being carried out in a facility.

(iv) "Reasonable assistance" includes, but is not limited to, clerical, copying, interpretation and translation services, the making available on request of personnel of the facility being inspected during their working hours to inform the EPA Enforcement Officer of how the facility operates and to answer his questions, and the performance on request of emissions tests on any vehicle which is being, has been, or will be used for certification testing. Such tests shall be nondestructive, but may require appropriate distance accumulation. A manufacturer may be compelled to cause the personal appearance of any employee at such a facility before an EPA Enforcement Officer by written request for his appearance, signed by the Assistant Administrator for Enforcement, served on the manufacturer. Any such employee who has been instructed by the manufacturer to appear will be entitled to be accompanied, represented, and advised by counsel. No counsel who accompanies, represents, or advises an employee compelled to appear may accompany, represent, or advise any other person in the investigation.

(v) Any entry without 24 hour prior written or oral notification to the affected manufacturer shall be authorized in writing by the Assistant Administrator for Enforcement.

§ 85.478–1 Emission standards for 1978 year of production vehicles.

(a)(1) Exhaust emissions from 1978 year of production motorcycles shall not exceed:

(i) Hydrocarbons.

(A) For vehicles with engine displacements equal to or greater than 50 cc (3.1 cu. in.) but less than 170 cc (10.4 cu. in.), 5.0 grams per vehicle kilometer.

(B) For vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.) but less than 750 cc (45.8 cu. in.), the standard computed by use of the following formula:

Hydrocarbon standard in grams per vehicle kilometer = 5 + 0.0155 × (D–170).

where:

D = engine displacement of the motorcycle in cubic centimeters, rounded to the nearest whole cubic centimeter in accordance with ASTM E 29–67. The hydrocarbon standard shall be rounded, in accordance with ASTM E 29–67, to two significant figures.

(C) For vehicles with engine displacements equal to or greater than 750 cc (45.8 cu. in.), 14 grams per vehicle kilometer.

(ii) Carbon monoxide. 17 grams per vehicle kilometer.

(iii) Oxides of nitrogen. 1.2 grams per vehicle kilometer.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over driving schedules as set forth in §§ 85.478–9 through 85.478–26 and measured and calculated in accordance with those procedures.

(b) No crankcase emissions shall be discharged into the ambient atmosphere from any new motorcycle subject to this subpart.

§ 85.478–2 Application for certification.

(a) An application for a certificate of conformity shall be made for each set of standards applicable to new motorcycles. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the vehicles covered by the application and a description of their engine, emission control system and fuel system components including the applicable parameters and specifications of Appendix VIIa. This shall include a detailed description of each auxiliary emission control device to be installed in or on any certification test vehicle.

(2) Projected U.S. sales data sufficient to enable the Administrator to select a test fleet representative of the vehicles for which certification is requested.

(3) A description of the test equipment, fuel, and engine lubricant proposed to be used.

(4) A description of the proposed distance accumulation procedure for durability testing, and a description of the proposed scheduled maintenance to be performed on durability data vehicles.

(5) A statement of recommended maintenance and procedures necessary to assure that the vehicles covered by a certificate of conformity in operation conform to the regulations, and a description of the program for training of personnel for such maintenance, and the equipment required.

(c) Complete copies of the application and of any amendments thereto, and all notifications under §§ 85.478–32, 33, and 34 shall be submitted in such multiple copies as the Administrator may require.

§ 85.478–3 Approval of application for certification; test fleet selections.

(a) After a review of the application for certification and any other information which the Administrator may require the Administrator may approve the application and select a test fleet in accordance with § 85.478–5.

(b) The Administrator may disapprove in whole or in part an application for certification for reasons including incompleteness, inaccuracy, inappropriate proposed distance accumulation procedures, test equipment, or fuel, and incorporation of defeat devices in vehicles described by the application.

(c) Where any part of an application is rejected, the Administrator shall notify the manufacturer in writing and set forth the reasons for such rejection. Within 30 days following receipt of such notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determinations, and data in support of such objections. If, after the review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.405 with respect to such issue.

§ 85.478–4 Required data.

The manufacturer shall perform the tests required by the applicable test procedures, and submit to the Administrator the following information:

(a) Durability data on such vehicles tested in accordance with the applicable test procedures of this subpart, and in such numbers as therein specified, which will show the performance of the systems installed on or incorporated in the vehicle for extended distance as well as a record of all pertinent maintenance performed on the test vehicles.

(b) Emission data on such vehicles tested in accordance with the applicable emission test procedures of this subpart and in such numbers as therein specified, which will show their emissions at zero kilometers and at the official emission data test point for that size vehicle (equal to or greater than 170 cc (10.4 cu. in.)—3500 km (2175 mi); less than 170 cc (10.4 cu. in.)—2500 km (1553 mi)).

(c) A statement that the description of tests performed to ascertain compliance with the general standards in § 85.404 and the data derived from such tests are available to the Administrator upon request.

(d) A statement that the test vehicles with respect to which data are available and are submitted to demonstrate compliance with §§ 85.404 and 85.478–1 have been tested in accordance with the applicable test procedures, that they meet the requirements of such tests, and that,

on the basis of such tests, they conform to the requirements of the regulations in this subpart. If such statements cannot be made with respect to any vehicle tested, the vehicle shall be identified, and all pertinent test data relating thereto shall be supplied.

§ 85.478–5 Test vehicles.

(a) (1) The vehicles covered by the application for certification will be divided into groupings of vehicles whose engines are expected to have similar emission characteristics throughout their useful life. Each group of engines with similar emission characteristics shall be defined as a separate engine family.

(2) (i) To be classed in the same engine family, reciprocating engines must be identical in all of the following applicable respects:

(A) The combustion cycle.

(B) The cooling mechanism.

(C) The cylinder configuration (inline, vee, opposed, etc.).

(D) The number of cylinders.

(E) The engine displacement category (equal to or greater than 170 cc (10.4 cu. in.), or less than 170 cc (10.4 cu. in.).

(F) The method of air aspiration.

(G) The catalytic converter characteristics.

(H) The thermal reactor characteristics.

(ii) To be classed in the same engine family, rotary combustion cycle engines must be identical in all of the following applicable respects:

(A) The major axis of the epitrochoidal curve.

(B) The minor axis of the epitrochoidal curve.

(C) The generating radius of the epitrochoidal curve.

(D) The cooling mechanism.

(E) The number of rotors.

(F) The engine displacement category (equal to or greater than 170 cc (10.4 cu. in.), or less than 170 cc (10.4 cu. in.)).

(G) The method of air aspiration.

(H) The catalytic converter characteristics.

(I) The thermal reactor characteristics.

(3) (i) Reciprocating engines identical in all the respects listed in paragraph (2) (i) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of features such as:

(A) The bore and stroke.

(B) The combustion chamber configuration.

(C) The intake and exhaust timing method of actuation (poppet valve, reed valve, rotary valve, etc.).

(D) The intake and exhaust valve and port sizes.

(E) The fuel system.

(F) The exhaust system.

(ii) Rotary combustion cycle engines identical in all the respects listed in paragraph (2) (ii) of this section may be further divided into different engine families if the Administrator determines that they may be expected to have different emission characteristics. This determination will be based upon a consideration of features such as:

(A) The width of the rotor housing.

(B) The type and location of intake port (side, peripheral, combination, etc.).

(C) The type and location of exhaust port (side, peripheral, combination, etc.).

(D) The number of spark plugs per rotor.

(E) The fuel system.

(F) The exhaust system.

(4) Where engines are of a type which cannot be divided into engine families based upon the criteria listed in subparagraphs (2) and (3) of this paragraph, the Administrator will establish families for those engines based upon the features most related to their emission characteristics.

(b) *Emission data vehicles:* (1) Vehicles will be chosen to be operated and tested for emission data based upon the engine-system combination groupings. Within each engine-system combination, the requirements of this paragraph must be met. The configuration of the vehicles selected will be specified by the Administrator.

(2) Vehicles of each engine-system combination will be divided into engine-system-displacement combinations. One vehicle of each engine-system-displacement combination will be selected. If there is only one engine-system-displacement combination in the engine-system combination, then two vehicles of that engine-system-displacement combination may be selected.

(3) The Administrator may select a maximum of four additional vehicles within each engine-system combination based upon features indicating that they may have the highest emission levels of the vehicles in that engine-system combination. In selecting these vehicles, the Administrator will consider the design specifications listed in the application for certification.

(c) *Durability data vehicles:* (1) A durability data vehicle will be selected by the Administrator to represent each engine-system combination. The vehicle selected usually will be of the engine displacement with the largest projected sales volume of vehicles with that control system combination in that engine family, and the configuration of the vehicle will be designated by the Administrator.

(2) A manufacturer may elect to operate and test additional vehicles to represent any engine-system combination. The additional vehicles must be of the same configuration as the vehicle selected for that engine-system combination in accordance with the provisions of paragraph (c) (1) of this section. Written notice of a commitment to operate and test additional vehicles shall be given to the Administrator not later than 30 days following notification of the test fleet selection.

(d) For purposes of testing under § 85.478–7(h), the Administrator may require additional emission data vehicles and durability data vehicles identical in all material respects to vehicles selected in accordance with paragraphs (b) and (c) of this section: Provided, That the number of vehicles selected shall not increase the size of either the emission data fleet or the durability data fleet by more than 20 percent or one vehicle, whichever is greater.

(e) Any manufacturer whose projected sales of new motorcycles subject to this subpart for the year of production for which certification is sought is less than 10,000 vehicles may request the Administrator to specify deterioration factors to be applied to his emission data vehicles, rather than develop deterioration factors through the operation of durability data vehicles as otherwise required by § 85.478–7(b), and also may request a reduction in the number of emission data vehicles determined in accordance with the foregoing provisions of this section. The Administrator may agree to specify a deterioration factor, and to reduce the number of emission data vehicles, as he determines would meet the objectives of the certification requirement.

(f) In lieu of testing an emission data or durability data vehicle selected under paragraph (b) or (c) of this section and submitting data therefore, a manufacturer may, with the prior written approval of the Administrator, submit data on a similar vehicle for which certification has previously been sought.

§ 85.478–6 Maintenance.

(a) (1) Scheduled maintenance on the engine, emission control system, and fuel system of durability or emission data vehicles shall be scheduled for performance at the same distance intervals that will be specified in the manufacturer's maintenance instructions furnished to the ultimate purchaser of the motorcycle. Such maintenance shall be performed, except as provided in paragraph (a) (4) (iii) of this section, only under the following provisions:

(i) Scheduled major engine tuneups to manufacturer's specifications may be performed no more frequently than every 4000 km (2485 mi) of scheduled driving for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), or no more frequently than every 3000 km (1864 mi) of scheduled driving for vehicles with engine displacements less than 170 cc (10.4 cu. in.): Provided, That no tuneup may be performed after 28,000 km (17,398 mi) of scheduled driving for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), or no tuneup may be performed after 10,500 km (6524 mi) of scheduled driving for vehicles with engine displacements less than 170 cc (10.4 cu. in.). A scheduled major engine tuneup shall be restricted to paragraph (a) (1) (i) (a) through (j) of this section and shall be conducted in a manner consistent with service instructions and specifications provided by the manufacturer for use by customer service personnel. The following items may be inspected, replaced, cleaned, adjusted, and/or serviced as required:

(A) Ignition system.

(B) Cold starting enrichment system.

(C) Curb idle speed and idle air/fuel mixture.
(D) Valve lash.
(E) Inlet air and exhaust gas control valves.
(F) Engine bolt torque.
(G) Spark plugs.
(H) Crankcase emission control system.
(I) Oil injection metering system.
(J) Exhaust silencing system.

(ii) Change of engine and transmission oil, and change or service of oil, air, and fuel filters will be allowed at the same distance intervals that will be specified in the manufacturer's maintenance instructions.

(2) Manufacturers may service the EGR system as unscheduled maintenance a maximum of two times during the durability distance accumulation if failure of the EGR system activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for EGR system maintenance. One additional servicing may also be performed as unscheduled maintenance if there is an overt indication of malfunction and if the malfunction or repair of the malfunction does not render the test vehicle unrepresentative of vehicles in use.

(3) The catalytic converter may be serviced as unscheduled maintenance only once during the durability distance accumulation if failure of the catalytic converter activates an audible and/or visual signal approved by the Administrator which alerts the vehicle operator to the need for catalytic converter maintenance.

(4) Any other engine, emission control system, or fuel system adjustment, repair, removal, disassembly, cleaning, or replacement on durability or emission data vehicles shall be performed only with the advance approval of the Administrator.

(i) In the case of unscheduled maintenance, such approval will be given if the Administrator:

(A) Has made a preliminary determination that part failure or system malfunction, or the repair of such failure or malfunction, does not render the vehicle unrepresentative of vehicles in use, and does not require direct access to the combustion chamber, except for spark plug, fuel injection component, or removable prechamber removal or replacement; and

(B) Has made a determination that the need for maintenance or repairs is indicated by an overt indication of malfunction such as persistent misfire, vehicle stall, overheating, fluid leakage, loss of oil pressure, or charge indicator warning.

(ii) Emission measurements may not be used as a means of determining the need for unscheduled maintenance under paragraph (a)(4)(i)(a).

(iii) Requests for authorization of scheduled maintenance of emission control related components not specifically authorized to be maintained by these regulations must be made prior to the beginning of distance accumulation. The Administrator will approve the performance of such maintenance if the manufacturer makes a satisfactory showing that the maintenance will be performed on vehicles in use or that the maintenance is reasonable and necessary.

(5) If the Administrator determines that part failure or system malfunction occurrence and/or repair rendered the vehicle unrepresentative of vehicles in use, the vehicle shall not be used as a durability or emission data vehicle.

(6) Where the Administrator agrees under § 85.478–7 to a distance accumulation of less than 30,000 km (18,641 mi) for durability testing for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), or to a distance accumulation of less than 12,000 km (7456 mi) for durability testing for vehicles with engine displacements less than 170 cc (10.4 cu. in.), he may modify the requirements of this paragraph.

(b) Repairs to vehicle components of durability or emission data vehicles, other than the engine, emission control system, or fuel system, shall be performed only as a result of part failure, vehicle system malfunction, or with the advance approval of the Administrator.

(c) Complete emission tests (see §§ 85.478–9 through 85.478–27) are required, unless waived by the Administrator, before and after any vehicle maintenance which may reasonably be expected to affect emissions. These test data shall be air posted to the Administrator within 24 hours (or delivered within 3 working days), after the tests, along with a complete record of all pertinent maintenance, including a preliminary engineering report of any malfunction diagnosis and the corrective action taken. A complete engineering report shall be delivered or air posted to the Administrator within 10 working days after the tests. In addition, all test data and maintenance reports shall be compiled and provided to the Administrator in accordance with § 85.478–4.

(d) The Administrator shall be given the opportunity to verify the existence of an overt indication of part failure and/or vehicle malfunction (e.g., misfire, stall), or an activation of an audible and/or visual signal, prior to the performance of any maintenance to which such overt indication or signal is relevant under the provisions of this section.

(e) Equipment, instruments, or tools may not be used to identify malfunctioning, maladjusted, or defective engine components unless the same or equivalent equipment, instruments, or tools will be available to dealerships and other service outlets and

(1) Are used in conjunction with scheduled maintenance on such components,

(2) Are used subsequent to the identification of a vehicle or engine malfunction, as provided in paragraph (a)(4)(i) of this section for durability or emission data vehicles, or

(3) Unless specifically authorized by the Administrator.

§ 85.478–7 Distance accumulation and emission measurements.

The procedure for distance accumulation will be the Durability Driving Schedule as specified in Appendix IV to this part. A modified procedure may also be used if approved in advance by the Administrator. Except with the advance approval of the Administrator, all vehicles will accumulate distance at a measured curb mass which is within 4 kg (8.8 lb) of the estimated curb mass. If the loaded vehicle mass is within 4 kg (8.8 lb) of being included in the next higher inertial mass category as specified in § 85.478–15(d), the manufacturer may elect to conduct the respective emission data vehicle test at the inertial mass corresponding to the higher loaded vehicle mass.

(a) Emission data vehicles: Each emission data vehicle shall be driven 3500 km (2175 mi) if the engine displacement is equal to or greater than 170 cc (10.4 cu. in.), or 2500 km (1553 mi) if the engine displacement is less than 170 cc (10.4 cu. in.) with all emission control systems installed and operating. Emission tests shall be conducted at zero kilometers and 3500 kilometers (2175 mi) for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), or at zero kilometers and 2500 kilometers (1553 mi) for vehicles with engine displacements less than 170 cc (10.4 cu. in.).

(b) Durability data vehicles: Each durability data vehicle shall be driven with all emission control systems installed and operating, for 30,000 km (18,641 mi) for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), or for 12,000 km (7456 mi) for vehicles with engine displacements less than 170 cc (10.4 cu. in.), or for such lesser distance as the Administrator may agree to as meeting the objectives of this procedure. Complete emission tests (see §§ 85.478–10 through 85.478–26) shall be made at the following distance points: 0, 5000, 10,000, 15,000, 20,000, 25,000, and 30,000 kilometers (0, 3107, 6214, 9321, 12,427, 15,534, and 18,641 mi) for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), or 0, 1500, 3000, 4500, 6000, 7500, 9000, 10,500, and 12,000 kilometers (0, 932, 1864, 2796, 3728, 4660, 5592, 6524, and 7456 mi) for vehicles with engine displacements less than 170 cc (10.4 cu. in.).

(c) Distance accumulation for emission data and durability data vehicles shall be conducted in increments of time, the sum of which shall not exceed a total of 12 hours of operation. A non-operating soak period of not less than 12 hours is required following each 12 hour total operating sequence. Engine shut downs are allowed while accumulating the 12 hour total operating sequence. Shut downs occurring before the accumulation of a 12 hour total operating sequence which exceed 12 hours may be considered as non-operating soak periods, and the next operating sequence may continue for 12 hours. During the non-operating soak period, the vehicle shall be exposed to normal outside ambient temperature and humidity conditions unless vehicle maintenance or servicing is being performed.

(d) All tests required by this subpart must be conducted at any accumulated distance within 250 kilometers (155 mi) of each of those test points.

(e)(1) Data from all tests (including voided tests) shall be air posted to the Administrator within 24 hours (or delivered within three working days). In addition, all test data shall be compiled and provided to the Administrator in accordance with § 85.478–4. Failure to comply with these requirements may invalidate all test data submitted for this test vehicle.

(2) The manufacturer shall furnish to the Administrator explanation for voiding any test. The Administrator will determine if voiding the test was appropriate based upon the explanation given by the manufacturer for the voided test. If the Administrator determines that voiding the test was not appropriate, the Administrator may require that the data from that test be used in the calculation of the deterioration factor.

(3) If a manufacturer conducts multiple tests at any test point at which the data are intended to be used in the calculation of the deterioration factor, the number of tests must be the same at each such point and may not exceed three valid tests. Tests between test points may be conducted as required by the Administrator. Where the Administrator conducts a valid test on a durability vehicle at a prescribed test point, the results shall be used in the calculation of the deterioration factor.

(4) The results of all emission tests shall be rounded, using the "Rounding-Off Method" specified in ASTM E 29–67, to the number of places to the right of the decimal point indicated by expressing the applicable standard in § 85.478–1 to three significant figures.

(f) Whenever the manufacturer proposes to operate and test a vehicle which may be used for emission or durability data, he shall provide the zero distance test data and the zero distance documents as required by the Administrator, and make the vehicle available for such testing under § 85.478–29 or inspection as the Administrator may require before beginning to accumulate test distance on the vehicle. Distance accumulation shall not begin until authorized by the Administrator. Failure to comply with these requirements will invalidate all test data submitted for this vehicle.

(g) Once a manufacturer begins to operate an emission data or durability data vehicle, as indicated by compliance with paragraph (f) of this section, the data from the vehicle will be used, unless specified otherwise by the Administrator, in the calculations under § 85.478–28. Discontinuation of a vehicle shall be allowed only with the written consent of the Administrator.

(h)(1) The Administrator may elect to operate and test any test vehicle during all or any part of the distance accumulation and testing procedure. In such cases, the manufacturer shall provide the vehicle(s) to the Administrator with all information necessary to conduct this testing.

(2) The test procedures in §§ 85.478–9 through 85.578–27 will be followed by the Administrator. The Administrator will test the vehicles at each test point which occurs while the vehicle is in the Administrator's possession. Maintenance may be performed by the manufacturer under such conditions as the Administrator may prescribe.

(3) The data developed by the Administrator for the engine-system combination shall be combined with any applicable data supplied by the manufacturer on other vehicles of that combination to determine the applicable deterioration factors for the combination. In the case of a significant discrepancy between data developed by the Administrator and that submitted by the manufacurer, the Administrator's data shall be used in the determination of deterioration factors.

(i) Emission testing of any type with respect to any certification vehicle other than that specified in this subpart is not allowed except as such testing may be specifically authorized by the Administrator.

§ 85.478–8 Special test procedures.

The Administrator may, on the basis of a written application therefor by a manufacturer, prescribe test procedures, other than those set forth in this subpart, for any motorcycle which he determines is not susceptible to satisfactory testing by the procedures set forth herein.

§ 85.478–9 Test procedures.

The procedures described in this and subsequent sections will be the test program to determine the conformity of motorcycles with the standards set forth in § 85.478–1.

(a) The test consists of prescribed sequences of fueling, parking, and operating conditions. The exhaust gases generated during vehicle operation are diluted with air and sampled continuously for subsequent analysis of specific components by prescribed analytical techniques. The test applies to vehicles equipped with catalytic or direct flame afterburners, induction system modifications, or other systems or to uncontrolled vehicles and engines. All test phases are conducted with an ambient temperature range between 20° and 30°C (68° and 86°F).

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix I to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) Except in cases of component malfunction or failure, all emission control systems installed on or incorporated in a new motorcycle shall be functioning during all procedures in this subpart. Maintenance to correct component malfunction or failure shall be authorized in accordance with § 85.478–6.

§ 85.478–10 Gasoline and engine lubricant specifications.

(a) Fuel having the following specifications will be used by the Administrator in exhaust emission testing. Fuels having the following specifications or substantially equivalent specifications approved by the Administrator, all be used by the manufacturer in exhaust emission testing, except that the lead and octane specifications do not apply.

Item	ASTM designation	Leaded	Unleaded
Octane, research minimum	D2699	100	96.
Pb (organic), gram/liter (grams/U.S. gallon)		0.370 (1.4) minimum	0.000–0.013 (0.00–0.05).
Distillation range	D86		
IBP, °C (°F)		23.9–35 (75–95)	23.9–35 (75–95).
10 pct point, °C (°F)		48.9–57.2 (120–135)	48.9–57.2 (120–135).
50 pct point, °C (°F)		93.3–110 (200–230)	93.3–110 (200–230).
90 pct point, °C (°F)		148.9–162.8 (300–325)	148.9–162.8 (300–325).
EP, °C (°F), maximum		212.8 (415)	212.8 (415).
Sulfur, mass percent, maximum	D1266	0.10	0.10.
Phosphorus, gram/liter (gram/U.S. gallon), maximum.		0.0026 (0.01)	0.0013 (0.005).
RVP, kPa (psi)	D323	55.2–63.4 (8.0–9.2)	55.2–63.4 (8.0–9.2).
Hydrocarbon composition	D1319		
Olefins, percent, maximum		10	10.
Aromatics, percent maximum		35	35.
Saturates		Remainder	Remainder.

(b) Fuels and engine lubricants representative of commercial fuels and engine lubricants which will be generally available through retail outlets shall be used in distance accumulation. For unleaded fuel, the minimum lead content shall be 0.005 gram per liter (0.02 gram per U.S. gallon) and the minimum phosphorus content shall be 0.0005 gram per liter (0.002 gram per U.S. gallon). For leaded fuel, the minimum lead content shall be 0.370 gram per liter (1.4 grams per U.S. gallon), except that where the Administrator determines that vehicles represented by a test vehicle will be operated using fuels of different lead content than that prescribed in this paragraph, he may consent in writing to use of a fuel with a different lead content. The octane rating of the fuel used shall be no higher than 4.0 Research octane numbers above the minimum recommended by the manufacturer. The Reid Vapor Pressure of the fuel used shall be characteristic of the motor fuel during the season which the distance accumulation takes place.

(c) The specification range of the fuels and engine lubricants to be used under paragraph (b) of this section shall be reported in accordance with § 85.478–2 (b)(3).

§ 85.478–11 [Reserved]

§ 85.478–12 Vehicle preconditioning.

Vehicles to be tested for compliance with the exhaust emission standards of this subpart shall be preconditioned as follows:

(a) The fuel tank of the test vehicle shall be drained and charged with the specified test fuel, § 85.478–10(a).

(b) The test vehicle shall be placed on the dynamometer and may be used to set dynamometer power, if necessary. The test vehicle shall be operated over a simulated trip, according to the applicable requirements and procedures of §§ 85.478–14 to 85.478–19 except that the engine need not be cold when starting the run on the dynamometer and only a single simulated trip shall be run.

(c) The engine and cooling fan shall be stopped upon completion of the dynamometer operation and the vehicle permitted to soak either on or off the dynamometer stand for a period of not less than 12 hours prior to the dynamometer test. If the vehicle is to be soaked off the dynamometer stand, no engine operation will be permitted during removal for the soak or during replacement for the dynamometer run as specified in § 85.478–15(a).

§ 85.478–13 [Reserved]

§ 85.478–14 Dynamometer driving schedule.

(a) The dynamometer driving schedule to be followed consists of a nonrepetitive series of idle, acceleration, cruise, and deceleration modes of various time sequences and rates. The driving schedule for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.) is defined by a smooth transition through the speed vs. time relationships listed in Appendix I (a) to this subpart. The driving schedule for vehicles with engine displacements less than 170 cc (10.4 cu. in.) is defined by a smooth transition through the speed vs. time relationships listed in Appendix I(b) to this subpart. The time sequence begins upon starting the vehicle according to the startup procedure described in § 85.478–19.

(b) The speed tolerance at any given time on the dynamometer driving schedule prescribed in Appendix I or as printed on a driver's aid chart approved by the Administrator, when conducted to meet the requirements of § 85.478–15, is defined by upper and lower limits. The upper limit is 3.2 k.p.h. (2.0 m.p.h.) higher than the highest point on the trace within 1 second of the given time. The lower limit is 3.2 k.p.h. (2.0 m.p.h.) lower than the lowest point on the trace within 1 second of the given time. Speed variations greater than the tolerances (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prescribed are acceptable provided the vehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed which are due to stalling are acceptable provided the provisions of § 85.478–19(g) are met. When conducted to meet the requirements of § 85.478–12, the speed tolerance shall be as specified above, except that the upper and lower limits shall be 6.5 k.p.h. (4.0 m.p.h.).

§ 85.478–15 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12 hour soak according to the provisions of § 85.478–12 and a "hot" start test with a 10 minute soak between the two tests. Engine startup (with all accessories turned off), operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon monoxide, and oxides of nitrogen.

(b) During dynamometer operation, a variable speed cooling blower shall be positioned in front of the vehicle so as to direct cooling air to the vehicle in a manner which simulates actual operating conditions. The blower shall have a mechanism (such as variable area air inlet(s)) which is controlled by dynamometer roll speed such that within the operating range of 10 k.p.h. (6.2 m.p.h.) to 70 k.p.h. (43.5 m.p.h.) the linear velocity of the air at the blower outlet is within 10 percent of the corresponding roll speed. At roll speeds of less than 10 k.p.h. (6.2 m.p.h.), air velocity shall be between zero and 10 k.p.h. (6.2 m.p.h.). The maximum linear air velocity from the cooling blower shall be at least 70 k.p.h. (43.5 m.p.h.). The blower outlet shall have a cross sectional area of at least 0.40 m^2 (4.31 ft^2), and the bottom of the blower outlet shall be between 0.15 m (0.49 ft) and 0.2 m, 0.66 ft) above floor level. The blower outlet shall be squarely positioned between 0.3 m (0.98 ft) and 0.45 m (1.48 ft) in front of the vehicle's front wheel.

(c) The vehicle shall be nearly level when tested in order to prevent abnormal fuel distribution.

(d)(1) Flywheels, electrical or other means of simulating inertia with inertial increments no greater than those shown in the following table shall be used.

Loaded vehicle mass, kilograms	*Equivalent inertial mass kilograms*
136 to 145	140
146 to 155	150
156 to 165	160
166 to 175	170
176 to 185	180
186 to 195	190
196 to 205	200
206 to 215	210
216 to 225	220
226 to 235	230
236 to 245	240
246 to 255	250
256 to 265	260
266 to 275	270
276 to 285	280
286 to 295	290
296 to 305	300
306 to 315	310
316 to 325	320
326 to 335	330
336 to 345	340
346 to 355	350
356 to 365	360
366 to 375	370
376 to 385	380
386 to 395	390
396 to 405	400
406 to 415	410
416 to 425	420
426 to 435	430
436 to 445	440
446 to 455	450
456 to 465	460
466 to 475	470
476 to 485	480

(2) The road load power shall be calculated to 3 significant figures from the following formula:

$$P = 0.005934I + 1.58458$$

where:

P = Road load power at 65 k.p.h., in kilowatts.

I = Actual loaded vehicle mass, in kilograms.

(3) Motorcycles with loaded vehicle mass outside the limits specified in § 85.478–15(d)(1) shall be tested at an equivalent inertial mass and road load power specified by the Administrator.

(e) *Power absorption unit adjustment.* (1) The power absorption unit shall be adjusted to reproduce road load power at 65 k.p.h. (40.4 m.p.h.) true speed. The indicated road load power setting shall take into account the dynamometer friction. The relationship between road load (absorbed) power and indicated road load power for a particular dynamometer shall be determined by the procedure outlined in Appendix II or by other suitable means.

(2) The road load power calculated from the formula above shall be used or the vehicle manufacturer may determine the road load power by one of the following procedures or other procedure approved in advance by the Administrator and request that it be used.

(i)(A) Measure the force at some point in the vehicle drive line of a representative vehicle and rider of the same equivalent inertial mass category being determined when operated on a level road under balanced wind conditions at a true speed of 65 + or − 2 k.p.h. (40.4 + or − 1.2 m.p.h.); and

(B) Note the dynamometer indicated road load power setting required to reproduce that force when the same vehicle is operated on the dynamometer at a true speed of 65 + or − 1 k.p.h. (40.4 + or − 0.6 m.p.h.); or

(ii)(A) Measure the time required for a representative vehicle and rider of the same equivalent inertial mass category being determined to freely coast from 70 k.p.h. (43.5 m.p.h.) down to 60 k.p.h. (37.3 m.p.h.) when operated on a level road under balanced wind conditions. This measurement should be repeated 10 times in immediate succession, 5 in each of the opposing road directions. The aver-

age time is then calculated from these measurements; and

(B) Note the dynamometer indicated road load power setting required to reproduce that average 70 k.p.h. (43.5 m.p.h.) to 60 k.p.h. (37.3 m.p.h.) coast down time when the same vehicle is allowed to freely coast on the dynamometer. The same equivalent inertial mass used in § 85.478–15(e)(2)(ii)(a) shall be set on the dynamometer.

(iii) For either § 85.478–15(e)(2)(i) or (ii) or any other procedure approved in advance by the Administrator, the tests on the road and on the dynamometer shall be performed with the same vehicle ambient absolute pressure (usually barometric), i.e. within + or − 1.33 kPa (+ or − 10 mm Hg); and the same vehicle ambient temperature, i.e. within + or − 5°C (+ or −9°F).

(iv) The road load power shall be determined according to the procedure outlined in Appendix II.

(f) The vehicle speed (k.p.h.) as measured from the dynamometer roll(s) shall be used for all conditions. A speed vs. time recording, as evidence of dynamometer test validity, shall be supplied on request of the Administrator.

(g) Practice runs over the prescribed driving schedule may be performed at test points, provided an emission sample is not taken, for the purpose of finding the minimum throttle action to maintain the proper speed-time relationship, or to permit sampling system adjustments to comply with § 85.478–20(b)(2).

(h) The drive wheel tire(s) may be inflated up to 300 kPa (43.5 psig) in order to prevent tire damage. The drive wheel tire pressure shall be reported with the test results.

(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 50 k.p.h. (31.1 m.p.h.) using a non-test vehicle.

(j) If the dynamometer power setting must be adjusted manually, it shall be set within 1 hour prior to the exhaust emissions test phase. The test vehicle shall not be used to make this adjustment. Dynamometers using automatic control of preselectable power settings may be set any time prior to the beginning of the emissions test.

(k) The driving distance, as measured by counting the number of dynamometer roll revolutions, shall be determined for the transient cold start, stabilized cold start, and transient hot start phases of the test.

§ 85.478–16 Manual transmissions.

(a) Vehicles equipped with transfer cases, multiple sprockets, etc., shall be tested in the manufacturer's recommended configuration for street or highway use. If more than one configuration is recommended or if the recommendation is deemed unreasonable by the Administrator, the Administrator will specify the test configuration.

(b) Idle modes shall be run with transmission in gear and with clutch disengaged (except first idle; see § 85.478–19).

(c) The vehicle shall be driven with minimum throttle movement to maintain the desired speed. No simultaneous use of brake and throttle shall be permitted.

(d) Acceleration modes shall be driven smoothly with the shift speeds as recommended in the manufacturer's operating instructions or owner's manual unless the recommendation is deemed unreasonable by the Administrator.

(1) If the manufacturer does not recommend shift speeds, the vehicle shall be shifted as specified in the following table for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.).

Shift	Speed
First to second gear	30 k.p.h. (18.6 m.p.h.)
Second to third gear	34 k.p.h. (28.0 m.p.h.)
Third to fourth gear	60 k.p.h. (37.3 m.p.h.)
Fourth to fifth gear	75 k.p.h. (46.6 m.p.h.)

(2) If the manufacturer does not recommend shift speeds, the vehicle shall be shifted as specified in the following table for vehicles with engine displacements less than 170 cc (10.4 cu. in.).

Shift	Speed
First to second gear	19 k.p.h. (11.8 m.p.h.)
Second to third gear	33 k.p.h. (20.5 m.p.h.)
Third to fourth gear	44 k.p.h. (27.3 m.p.h.)
Fourth to fifth gear	53 k.p.h. (32.9 m.p.h.)

(3) Sixth gear may be used at the manufacturer's option.

(e) The operator shall release the throttle during the shift, disengage the clutch, and accomplish the shift with minimum time. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at maximum available power until the vehicle speed reaches the speed at which it should be at that time during the test.

(f) The deceleration modes shall be run with clutch engaged and without shifting gears from the previous mode, using brakes or throttle as necessary to maintain the desired speed. For those modes which decelerate to zero, the clutch shall be disengaged when the speed drops below 30 k.p.h. (18.6 m.p.h.) for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), when the speed drops below 19 k.p.h. (11.8 m.p.h.) for vehicles with engine displacements less than 170 cc (10.4 cu. in.), when engine roughness is evident, or when engine stalling is imminent.

(g) Downshifting is allowed at the beginning of or during a power mode if recommended by the manufacturer or if the engine obviously is lugging.

§ 85.478–17 [Reserved]

§ 85.478–18 Automatic transmissions.

(a) All tests shall be conducted with the transmission in "Drive" (highest gear). Automatic clutch-torque converter transmissions may be shifted as manual transmissions at the option of the manufacturer.

(b) Idle modes shall be run with the transmission in "Drive" and the wheel(s) braked (except first idle; see § 85.478–19).

(c) The vehicle shall be driven with minimum throttle movement to maintain the desired speed. No simultaneous use of brake and throttle shall be permitted.

(d) Acceleration modes shall be driven smoothly allowing the transmission to shift automatically through the normal sequence of gears. If the vehicle cannot accelerate at the specified rates, the vehicle shall be accelerated at maximum available power until the vehicle speed reaches the speed at which it should be at that time during the driving schedule.

(e) The deceleration modes shall be run in gear using brakes or throttle as necessary to maintain the desired speed.

§ 85.478–19 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20 second idle period shall begin when the engine starts.

(b) *Choke operation:* (1) Vehicles equiped with automatic chokes shall be operated according to the instructions which will be included in the manufacturer's operating instructions or owner's manual including choke setting and "kick-down" from cold fast idle. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheel(s) from turning.

(2) Vehicles equipped with manual chokes shall be operated according to the instructions which will be included in the manufacturer's operating instructions or owner's manual.

(c) The operator may use the choke, throttle, etc., where necessary to keep the engine running.

(d) If the manufacturer's operating instructions or owner's manual does not specify a warm engine starting procedure, the engine (automatic and manual choke engines) shall be started by opening the throttle about half way and cranking the engine until it starts.

(e)(1) If the vehicle does not start after 10 seconds of cranking, or ten cycles of the manual starting mechanism, during the cold start, cranking shall cease and the reason for failure to start determined in accordance with § 85.478–6. The revolution counter on the constant volume sampler (see § 85.478–24 Dynamometer test runs) shall be turned off and the sample solenoid valves placed in the "dump" position during this diagnostic period. In addition, either the positive displacement pump should be turned off or the exhaust tube(s) disconnected from the tailpipe(s) during the diagnostic period. If failure to start is an operational error, the vehicle shall be rescheduled for testing from a cold start. If failure to start is caused by vehicle malfunction, corrective action of less than 30 minutes duration may be taken and the test continued. The sampling system shall be reactivated at the same time cranking is started. When the engine starts, the driving schedule timing sequence shall begin. If failure to start is caused by vehicle malfunction and the vehicle cannot be started, the test shall be voided, the vehicle removed from the dynamometer, corrective

action taken in accordance with § 85.478–6, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(2) If the vehicle does not start after 10 seconds of cranking, or ten cycles of the manual starting mechanism, during the hot start, cranking shall cease, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken in accordance with § 85.478–6, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

(f) If the engine "false starts", the operator shall repeat the recommended starting procedure (such as resetting the choke, etc.).

(g) *Stalling:* (1) If the engine stalls during an idle period, the engine shall be restarted immediately and the test continued. If the engine cannot be started soon enough to allow the vehicle to follow the next acceleration as prescribed, the driving schedule indicator shall be stopped. When the vehicle restarts the driving schedule indicator shall be reactivated.

(2) If the engine stalls during some operating mode other than idle, the driving schedule indicator shall be stopped, the vehicle restarted, accelerated to the speed required at that point in the driving schedule and the test continued.

(3) If the vehicle will not restart within 1 minute, the test shall be voided, the vehicle removed from the dynamometer, corrective action taken in accordance with § 85.478–6, and the vehicle rescheduled for test. The reason for the malfunction (if determined) and the corrective action taken shall be reported.

§ 85.478–20 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figures E 478–1 and E 478–2) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Since various configurations of the required components can produce accurate results, these schematic drawings are not to be interpreted literally and exact conformance is not mandatory. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this subpart. See Figure E 478–1. Other types of constant volume samplers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream.

(2) A leak-tight connector(s) and tube(s) to the vehicle tailpipe(s). The tubing shall be sized and connected in such a maner that the static pressure variations in the vehicle tailpipe(s) remain within + or − 1.25 kPa (+ or − 5.02 in. H20) of the static pressure variations measured during a dynamometer driving cycle with no connection to the tailpipe(s). Sampling systems capable of tolerances to + or − 0.25 kPa (+ or − 1.00 in. H20) will be used by the Administrator if a written request by the manufacturer substantiates the need for this closer tolerance.

(3) A heating system to preheat the heat exchanger to within + or − 5°C (+ or − 9°F) of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to + or − 5°C (+ or − 9°F) as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pump the dilute exhaust mixture. The pump capacity (0.14 m^3/s (300 cfm) to 0.17 m^3/s (350 cfm) is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix III for one flow calibration technique. Other suitable calibration techniques may be used if approved in advance by the Administrator.

(6) Temperature sensor (T1) with an accuracy of + or − 1°C (+ or − 1.8° F) to allow continuous recording of the temperature of the dilute exhaust mixture entering the positive displacement pump. (See § 85.478–22(1).)

(7) Gauge (G1) with an accuracy of + or − 400 Pa (+ or − 3mm Hg) to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with an accuracy of + or − 400 Pa (+ or − 3 mm Hg) to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution air stream and the dilute exhaust mixture.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 80 cm^3/s (10.2 ft^3/hr).

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1, V2, V3, and V4) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect, leak-tight fittings (C1, C2, C3, and C4) with automatic shutoff on bag side to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure E 478–2.

(1) Quick-connect, leak-tight fitting (C5) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V5, V6, V7, V8, V9, V10, V11, and V12) for directing samples, span gases, or zeroing gases to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13, N14, and N15) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, FL5, FL6, and FL7) to indicate gas flow rates.

(7) Pressure gauges (G3 and G4) to facilitate greater precision in setting and reading flowrates.

(8) Manifold (M1) to collect the expelled gases from the analyzers.

(9) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(10) Analyzers to determine hydrocarbon, carbon monoxide, carbon dioxide, and oxides of nitrogen concentrations. See § 85.478–23(a).

(11) Sample conditioning column containing CaSO4 or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

NOTE.—If CO instruments which are essentially free of CO2 and water vapor interference are used, the use of the conditioning column may be deleted. See §§ 85.478–22(n) and 85.478–26(c). A CO instrument will be considered to be essentially free of CO2 and water vapor interference if its response to a mixture of 3 percent CO2 in N2, which has been bubbled through water at room tem-

perature (20°–30°C (68°–86°F)), produces an equivalent CO response, as measured on the most sensitive CO range, which is less than 1 percent of full scale CO concentration on instrument ranges above 300 ppm CO or less than 3 ppm on instrument ranges below 300 ppm CO.

(12) Recorders (R1, R2, R3, and R4) or digital printers to provide permanent records of calibration, spanning, and sample measurements; or in those facilities where computerized data acquisition systems are incorporated, the computer facility printout may be used.

§ 85.478–21 [Reserved]

§ 85.478–22 Information to be recorded.

The following information shall be recorded with respect to each test:

(a) Test number.

(b) System or device tested (brief description).

(c) Date and time of day for each part of the test schedule.

(d) Instrument operator.

(e) Rider or operator.

(f) Vehicle: Make, Vehicle identification number, Year of production, Transmission type, Odometer reading, Engine displacement, Engine family, Idle RPM, Nominal fuel tank capacity, Inertial loading, Actual curb mass recorded at 0 kilometers, Actual road load power at 65 k.p.h. (40.4 m.p.h.) and drive wheel tire pressure.

(g) Indicated road load power absorption at 65 k.p.h. (40.4 m.p.h.) and dynamometer serial number. As an alternative to recording the dynamometer serial number, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator: Provided, That the test cell records show the pertinent information.

(h) All pertinent instrument information such as tuning—gain—serial number—detector number—range. As an alternative, a reference to a vehicle test cell number may be used, with the advance approval of the Administrator: *Provided*, That the test cell calibration records show the pertinent instrument information.

(i) *Recorder charts:* Identify zero, span, exhaust gas, and dilution air sample traces.

(j) Test cell barometric pressure, ambient temperature, and humidity.

NOTE.—A central laboratory barometer may be used: Provided, That individual test cell barometric pressures are shown to be within + or — 0.1 percent of the barometric pressure at the central barometer location.

(k) *Fuel temperature, as prescribed.*

(l) Pressure of the mixture of exhaust and dilution air entering the positive displacement pump, the pressure increase across the pump, and the temperature set point of the temperature control system. The sample temperature at the inlet to the pump may be measured, if desired, to verify that the temperature variations are within + or — 2°C (+ or — 3.6°F) of the set point.

(m) The number of revolutions of the positive displacement pump accumulated while the test is in progress and exhaust flow samples are being collected.

(n) The humidity of the dilution air. Note: If conditioning columns are not used (see § 85.478–20(c)(11), this measurement can be deleted. If the conditioning columns are used and the dilution air is taken from the test cell, the ambient humidity can be used for this measurement.

(o) The driving distance for each of the three phases of the test, calculated from the measured roll revolutions.

§ 85.478–23 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade air or zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 400 ppm (0.04 mole percent) carbon dioxide, and 0.1 ppm nitric oxide.

(3) Set the CO and CO2 analyzer gains to give the desired range. Select the desired attenuation scale of the HC analyzer, set the capillary flow rate by adjusting the back pressure regulator, and adjust the electronic gain control, if provided, to give the desired range. Select the desired scale of the NOx analyzer and adjust the phototube high voltage supply or amplifier gain to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NOx analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within + or — 2 percent of the true values.

(5) Compare values obtained on the CO and CO2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct the problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) NOx converter efficiency determination: The apparatus described and illustrated in Figure E 478–7 or Figure E 478–8 is to be used to determine the conversion efficiency of devices that convert NOx to NO.

The following procedure is to be used for determining the values to be used in Equation (A).

(i) Attach the NO/N2 supply (150–250 ppm) at C2, the O2 supply at C1 and the analyzer inlet connection to the efficiency detector at C3. If lower concentrations of NO are used, air may be used in place of O2 to facilitate better control of the NO2 generated during step (iv).

(ii) With the efficiency detector variac off, place the NOx converter in bypass mode and close valve V3. Open valve MV2 until sufficient flow and stable readings are obtained at the analyzer. Zero and span the analyzer output to indicate the value of the NO concentration being used. Record this concentration.

(iii) Open valve V3 (on/off flow control solenoid valve for O2) and adjust valve MV1 (O2 supply metering valve) to blend enough O2 to lower the NO concentration (ii) about 10 percent. Record this concentration.

(iv) Turn on the ozonator and increase its supply voltage until the NO concentration of (iii) is reduced to about 20 percent of (ii). NO2 is now being formed from the NO+O2 reaction. There must always be at least 10 percent unreacted NO at this point. Record this concentration.

(v) When a stable reading has been obtained from (iv), place the NOx converter in the convert mode. The analyzer will now indicate the total NOx concentration. Record this concentration.

(vi) Turn off the ozonator and allow the analyzer reading to stabilize. The mixture NO+O2 is still passing through the converter. This reading is the total NOx concentration of the dilute NO span gas used at step (iii). Record this concentration.

(vii) Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO2.

Calculate the efficiency of the NOx converter by substituting the concentrations obtained during the test into equation (A).

$$\text{Percent efficiency} = [(v-(iv))/((vi)-(iv))] \times 100 \text{ percent}$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Efficiency checks should be made on each analyzer range using an NO span gas concentration appropriate to the instrument range. See alternate procedure in paragraph (a)(6)(viii).

(viii) Alternative to paragraph (a)(6)(vii): Close valve V3. The NO concentration should be equal to or greater than the reading of (ii) indicating whether the NO contains any NO2.

Calculate the efficiency of the NO converter by substituting the concentrations obtained during the test into Equation (A).

$$\text{Percent efficiency} = [1+(v-vi)/(iii-iv)] \times 100 \text{ percent} \quad (A)$$

The efficiency of the converter should be greater than 90 percent. Adjusting the converter temperature may be needed to maximize the efficiency. Although steps (ii) and (vii) are not used in the calculations, their values should be recorded to complete the data set for the test sequence. This procedure does not depend on the amount of NO2 in the span gas nor the equivalence of flows in the bypass and converter modes; how-

ever, to be consistent with good operating practice, flows should be nominally the same, and the NO2 concentration should be less than 5 percent of the NOx span concentration. Efficiency checks should be made at a frequency (daily to weekly) consistent with good quality assurance provisions.

(7) Check the efficiency of the sample conditioning system, if used, by the following procedure:

(i) Zero and span the CO instrument on its most sensitive scale.

(ii) Recheck zero.

(iii) Bubble a mixture of 3 percent CO2 in N2 through water at room temperature (20°–30°C (68°–86°F)), through the conditioning column into the CO instrument. If the response meets the criteria of § 85.478-20(c)(11), then the conditioning column is functioning acceptably. If the response is higher than the specified limit, a new conditioning column should be installed and the test repeated.

(iv) Sample conditioning systems should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

(b) HC, CO, CO2, and NOx measurements: Allow a minimum of 20 minutes warm-up for the HC analyzer and 2 hours for the CO, CO2, and NOx analyzers. Power is normally left on for infrared and chemiluminescence analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after tests.

(2) Introduce span gases and set the CO and CO2 analyzer gains, the HC analyzer sample capillary flow rate and the NOx analyzer high voltage supply or amplifier gain to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO or CO2 analyzers, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart or computer printout.

(3) Check zeros; repeat the procedure in paragraphs (b) (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Measure HC, CO, CO2, and NOx concentrations of samples. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(6) Check zero and span points.

(c) For the purposes of this section, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

§ 85.478–24 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold start exhaust emission test at an ambient temperature range between 20° and 30° C (68° and 86° F). The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. For vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), the complete dynamometer test consists of a cold start drive of 12.0 km (7.5 mi) and simulates a hot start drive of 12.0 km (7.5 mi). For vehicles with engine displacements less than 170 cc (10.4 cu. in.), the complete dynamometer test consists of a cold start drive of 10.9 km (6.8 mi) and simulates a hot start drive of 10.9 km (6.8 mi). The vehicle is allowed to stand on the dynamometer during the 10 minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold start test. The second period of the hot start test, the "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run. During the tests the ambient temperature shall be between 20° and 30° C (68° and 68° F).

(b) The following steps shall be taken for each test:

(1) Place the drive wheel(s) of the vehicle on the dynamometer without starting the engine.

(2) Start the vehicle cooling fan.

(3) With the sample solenoid valves in the "dump" position connect the evacuated sample collection bags to the two dilute exhaust sample connectors and to the two dilution air sample line connectors.

(4) Start the positive displacement pump (if not already on), the sample pumps, and the temperature recorder. (The heat exchanger of the constant volume sampler should be preheated to its operating temperature before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 80 cm^3/s (10.2 ft^3/hr)) and set the revolution counters to zero.

(6) Attach the flexible exhaust tube(s) to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flow into the "transient" exhaust sample bag and the "transient" dilution air sample bag, and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§ 85.478–14).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the sample flows from the "transient" bags to the "stabilized" bags, switch off revolution counter No. 1 and start No. 2. Before the acceleration which begins at 510 seconds, record the measured roll revolutions and reset the counter, or switch to a second counter. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.478–23.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 and position the sample solenoid valves to the "dump" position. Record the measured roll revolutions and reset the counter. As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the "stabilized" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.478–23.

(14) Immediately after the end of the sample period turn off the cooling fan.

(15) Turn off the positive displacement pump or disconnect the exhaust tube(s) from the tailpipe(s) of the vehicle.

(16) Repeat the steps in paragraph (b) (2) through (10) of this section for the hot start test except only one evacuated sample bag is required for sampling exhaust gas and one for dilution air. The step in paragraph (b) (7) of this section shall begin between 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start test sample period.) Record the measured roll revolutions.

(18) As soon as possible and in no case longer than 20 minutes after the end of this portion of the test disconnect the hot start "transient" exhaust and dilution air sample bags, transfer them to the analytical system and process the samples according to § 85.478–23.

(19) Disconnect the exhaust tube(s) from the vehicle tailpipe(s) and remove the vehicle from the dynamometer.

(20) The positive displacement pump may be turned off, if desired.

§ 85.478–25 Chart reading.

(a) Determine the HC, CO, CO2, and NOx concentrations of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts or computer storage files.

(b) Determine the average dilute exhaust mixture temperatures from the temperature recorded trace if a recorder is used.

§ 85.478–26 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a)

$$Ywm = 0.43[Yct + Ys)/(Dct + Ds)] + 0.57[(Yht + YS)/(Dht + Ds)]$$

where:

Ywm = Weighted massemissions of each pollutant, i.e., HC, CO, or NOx, in grams per vehicle kilometer.

Yct = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Yht = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Ys = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

Dct = The measured driving distance from the "transient" phase of the cold start test, in kilometers.

Dht = The measured driving distance from the "transient" phase of the hot start test, in kilometers.

Ds = The measured driving distance from the "stabilized" phase of the cold start test, in kilometers.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon mass:

$$HCmass = Vmix \times DensityHC \times (HCconc/1{,}000{,}000)$$

(2) Oxides of nitrogen mass:

$$NOxmass = Vmix \times DensityNO2 \times (NOxconc \times Kh/1{,}000{,}000)$$

(3) Carbon monoxide mass:

1,000,000)

$$COmass = Vmix \times DensityCO \times (COconc/\text{equivalent propane} \times 3.$$

(4) Carbon dioxide mass:

$$CO2mass = Vmix \times DensityCO2 \times (CO2\ conc/100)$$

(c) Meaning of symbols:

HCmass = Hydrocarbon emissions, in grams per test phase.

DensityHC = Density of hydrocarbon in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in kilograms per cubic meter at 20° C (68° F) and 101.325 kPa (760 mm Hg) pressure (0.5767 kg/m³ (16.33 g/ft³)).

HCconc = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e., equivalent propane ×3.

$$HCconc = HCe - HCd(1 - 1/DF)$$

where:

HCe = Hydrocarbon concentrations of the dilute exhaust sample as measured, in ppm carbon equivalent.

HCd = Hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

NOxmass = oxides of nitrogen emissions, in grams per test phase.

Density NO2 = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in kilograms per cubic meter at 20° C (68° F) and 101.325 kPa (760 mm Hg) pressure (1.913 kg/m³ (54.16 g/ft³)).

NOxconc = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in ppm.

$$NOxconc = NOxe - NOxd\ (1 - 1/DF)$$

where:

NOxe = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in ppm.

NOxd = Oxides of nitrogen concentration of the dilution air as measured, in ppm.

COmass = Carbon monoxide emissions, in grams per test phase.

Density CO = Density of carbon monoxide in kilograms per cubic meter at 20° C (68° F) and 101.325 kPa (760 mm Hg) pressure (1.164 kg/m³ (32.97 g/ft³)).

COconc = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO2 extraction, in ppm.

$$COconc = COe - COd\ (1 - 1/DF)$$ where:

COe = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$$COe = (1 - 0.01925CO2e - 0.000323R)\ COem$$

where:

COem = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO2e = Carbon dioxide concentration of the dilute exhaust sample, in mole precent.

R = Relative humidity of the dilution air, in percent (see #85.478–22(n)).

COd = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$$COd = (1 - 0.000323R)\ COdm$$

where:

COdm = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

NOTE: If a CO instrument which meets the criteria specified in § 85.478–20(c)(11) is used and the conditioning column has been deleted, COem can be substituted directly for COe and COdm can be substituted directly for COd.

CO2mass = Carbon dioxide emissions, in grams per test phase.

DensityCO2 = Density of carbon dioxide in kilograms per cubic meter at 20° C (68° F) and 101.325 kPa (760 mm Hg) pressure (1.843 kg/m³ (52.20 g/ft³)).

CO2conc = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$$CO2conc = CO2e - CO2d\ (1 - 1/DF)\ 10^{-4}$$

where:

CO2d = Carbon dioxide concentration of the dilution air as measured, in ppm.

$$DF = 13.4/[CO2e + (HCe + COe)\ 10^{-4}]$$

Vmix = Total dilute exhaust volume in cubic meters per test phase corrected to standard conditions (293.15° K (528° R) and 101.325 kPa (760 mm Hg)).

$$Vmix = Vo \times N[(Pb - Pi)\ (293.15°\ K)]/[(101.325\ kPa)\ (Tp)]$$

where:

Vo = Volume of gas pumped by the positive displacement pump, in cubic meters per revolution. This volume is dependent on the pressure differential across the positive displacement pump. (See calibration techniques in Appendix III.)

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

Pb = Barometric pressure in kPa.

Pi = Pressure depression below atmospheric measured at the inlet to the positive displacement pump.

Tp = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Kelvin.

Kh = Humidity correction factor.

$$Kh = 1/[1 - 0.033(H - 10.7)]$$

where:

H = Absolute humidity in grams of water per kilogram of dry air.

$$H = [(6.2066)Ra \times Pd]/[Pb - (Pd \times Ra/100)]$$

Ra = Relative humidity of the ambient air, in percent.

Pd = Saturated vapor pressure, in kPa at the ambient dry bulb temperature.

(d) Example calculation of mass emission values for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.):

(1) For the "transient" phase of the cold start test assume Vo = 0.0083093 m³ per revolution; N = 10,485; R = 48.0 percent; Ra = 48.2 percent; Pb = 101.6 kPa; Pd = 2.963 kPa; Pi = 9.332 kPa; Tp = 316.7° K; HCe = 105.8 ppm carbon equivalent; NOxe = 11.2 ppm; COem = 306.6 ppm; CO2e = 0.73 percent; HCd = 12.1 ppm; NOxd = 0.8 ppm; COdm = 15.3 ppm; CO2d = 315 ppm; Dct = 5.781 km. Then:

$$Vmix = [(0.0083093)\ (10{,}485)\ (101.6 - 9.332)/(293.15)]/[(101.325)\ (316.7)]$$

Vmix = 73.436 m³ per test phase.

$$H = [(6.2066)\ (48.2)\ (2.963)]/[(101.6) - (2.963)\ (48.2/100)]$$

H = 8.85 grams H2O per kq dry air.

$$Kh = 1/[1 - 0.033(8.85 - 10.7)]$$

Kh = 0.9425

$$COe = [1 - 0.01925(0.73) - 0.000323(48)]306.6$$

COe = 297.5 ppm.

$$COd = [1 - 0.000323(48)]15.3$$

COd = 15.1 ppm.

$$DF = 13.4/[0.73 + (105.8 + 297.5)10^{-4}$$

DF = 17.40

$$HCconc = 105.8 - 12.1(1 - 1/17.40)$$

HCconc = 94.40 ppm.

$$HCmass = (73.436)\ (576.7)\ (94.40)\ 10^{-6}$$

HCmass = 3.998 grams per test phase

$$NOxconc = 11.2 - 0.8(1 - 1/17.40)$$

NOxconc = 10.45 ppm.

$$NOxmass = (73.436)\ (1913)\ (10.45)\ (0.9425)\ 10^{-6}$$

NOxmass = 1.384 grams per test phase.

$$COconc = 297.5 - 15.1(1 - 1/17.40)$$

COconc = 283.3 ppm.

$$COmass = (73.436)\ (1164)\ (283.3)\ 10^{-6}$$

COmass = 24.22 grams per test phase.

$$CO2conc = 0.73 - 315(1 - 1/17.40)\ 10^{-4}$$

CO2conc = 0.7003 ppm.

$$CO2mass = (73.436)\ (1843)\ (0.7003)\ 10^{-2}$$

CO2mass = 947.8 grams per test phase.

(2) For the "stabilized" portion of the cold start test assume that similar calculations resulted in HCmass = 0.62 gram per test phase; NOxmass = 1.27 grams per test phase; COmass = 5.98 grams per test phase; and CO2mass = 1178 grams per test phase. Ds = 6.207 kilometers.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in HCmass = 0.51 gram per test phase; NOxmass = 1.38 grams per test phase; COmass = 5.01 grams per test phase; and CO2mass = 883.4 grams per test phase. Dht = 5.773 kilometers.

(4) For a 1978 motorcycle with an engine displacement equal to or greater than 170cc (10.4 cu. in.):

$$HCwm = 0.43[(3.998 + 0.62)\ /\ (5.781 + 6.207)] + 0.57[(0.51 + 0.62)/(5.773 + 6.207)]$$

HCwm=0.219 gram per vehicle kilometer.
NOxwm=0.43[(1.384+1.27)/(5.781+6.207)]+0.57[(1.38+1.27)/(5.773+6.207)]
NOxwm=0.221 gram per vehicle kilometer.
COwm=0.43[(24.22+5.98)/(5.781+6.207)]+0.57[(5.01+5.98)/(5.773+6.207)]
COwm=1.61 grams per vehicle kilometer.
CO2wm=0.43[(947.8+1178)/(5.781+6.207)]+0.57[(883.4+1178)/(5.773+6.207)]
CO2wm=174 grams per vehicle kilometer.

§ 85.478–27 [Reserved]

§ 85.478–28 Compliance with emission standards.

(a) The applicable exhaust emission standards in #85.478–1 apply to the emissions from vehicles for their useful life.

(b) Since it is expected that emission control efficiency will change with distance accumulation on the vehicle, the emission level of a vehicle which has accumulated 30,000 km (18,641 mi) for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), or which has accumulated 12,000 km (7,456 mi) for vehicles with engine displacements less than 170 cc (10.4 cu. in.) will be used as the basis for determining compliance with the standards.

(c) The procedure for determining compliance of a new motorcycle with exhaust emission standards is as follows:

(1) Separate emission deterioration factors shall be determined from the emissions results of the durability data vehicles for each engine-system combination. Separate factors shall be established for exhaust BC, exhaust CO, and exhaust NOX.

(i) The applicable results to be used in determining the deterioration factors for each combination shall be:

(A) All valid emission data from the tests required under § 85.478–7(b) except the zero kilometer tests for vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.), or except the zero and 1500 kilometer (0 and 932 mi) tests for vehicles with engine displacements less than 170 cc (10.4 cu. in.). This shall include the official test results as determined in § 85.478–29 for all tests conducted or all durability vehicles of the combination selected under § 85.478–5(c) (including all vehicles elected to be operated by the manufacturer under § 85.478–5(c)(2)).

(B) All durability emission data from the tests conducted before and after the scheduled maintenance provided in § 85.478–6(a)(1)(i) and (4)(iii).

(C) All durability emission data from tests required by maintenance approved under § 85.478–6(a)(4)(i), in those cases where the Administrator conditioned his approval for the performance of such maintenance on the inclusion of such data in the deterioration factor calculation.

(ii) All applicable results shall be plotted as a function of the distance on the system, rounded to the nearest kilometer and the best fit straight lines, fitted by the method of least squares, shall be drawn through these data points. For vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.) the extrapolated 3500 km (2175 mi) and interpolated 30,000 km (18,641 mi) points on this line must be within the standards provided in § 85.478–1 or the data will not be acceptable for use in calculation of a deterioration factor unless no applicable data point exceeded the standards. For vehicles with engine displacements less than 170 cc (10.4 cu. in.) the extrapolated 2500 km (1553 mi) and interpolated 12,000 km (7456 mi) points on this line must be within the standards provided in § 85.478–1 or the data will not be acceptable for use in calculation of a deterioration factor unless no applicable data point exceeded the standards.

(iii) An exhaust emission deterioration factor shall be calculated for each combination as follows:

For vehicles with engine displacements equal to or greater than 170 cc (10.4 cu. in.):

factor=(exhaust emissions interpolated to 30,000 km) (exhaust emissions extrapolated to 3500 km)

For vehicles with engine displacements less than 170 cc (10.4 cu. in.):

factor=(exhaust emissions interpolated to 12,000 km) (exhaust emissions extrapolated to 2500 km)

These interpolated and extrapolated values shall be carried out to four places to the right of the decimal point before dividing one by the other to determine the deterioration factor. The results shall be rounded to three places to the right of the decimal point in accordance with ASTM E 29–67.

(2) The exhaust emission test results for each emission data vehicle shall be multiplied by the appropriate deterioration factor: Provided, That if a deterioration factor as computed in subparagraph (1)(iii) of this paragraph is less than one, that deterioration factor shall be one for the purposes of this subparagraph.

(3) The emissions to compare with the standard shall be the adjusted emissions of paragraph (c)(2) for each emission data vehicle. Before any emission value is compared with the standard, it shall be rounded, in accordance with ASTM E 29–67, to two significant figures. The rounded emission values shall not exceed the standard.

(4) Every test vehicle of an engine family must comply with all applicable standards, as determined in paragraph (c)(3), before any vehicle of that family may be certified.

§ 85.478–29 Testing by the Administrator.

(a) The Administrator may require that any one or more of the test vehicles be submitted to him, at such place or places as he may designate, for the purpose of conducting emissions tests. The Administrator may specify that he will conduct such testing at the manufacturer's facility, in which case instrumentation and equipment specified by the Administrator shall be made available by the manufacturer for test operations. Any testing conducted at a manufacturer's facility pursuant to this paragraph shall be scheduled by the manufacturer as promptly as possible.

(b)(1) Whenever the Administrator conducts a test on a test vehicle the results of that test, unless subsequently invalidated by the Administrator, shall comprise the official data for the vehicle at that perscribed test point and the manufacturer's data for that prescribed test point shall not be used in determining compliance with emission standards.

(2) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that test point: Provided, That if the Administrator makes a determination based on testing under paragraph (a) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: And further provided, That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provision of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission of further information.

(3)(i) The emission data vehicle presented to the Administrator for testing shall have been calibrated at zero kilometers within the production tolerances applicable to the manufacturer's specifications. If the Administrator determines that a vehicle is not within such tolerances to be shown on the vehicle label (see § 85.478–35(a)(4)(iv)) as specified in the application for certification, the vehicle shall be adjusted at the facility designated by the Administrator prior to the test and an engineering report shall be submitted to the Administrator describing the corrective action taken. Based on the engineering report, the Administrator will determine if the vehicle shall be used as an emission data vehicle.

(ii) If the Administrator determines that the test data developed under paragraph (b)(3)(i) would cause the emission data vehicle to fail due to excessive emissions at the official data vehicle test point (equal to or greater than 170 cc (10.4 cu. in.)—3500 km (2175 mi); less than 170 cc (10.4 cu. in.)—2500 km (1553 mi)) or by application of the appropriate deterioration factor, then the following procedure shall be observed:

(A) The manufacturer may request a retest. Before the retest, the vehicle may be readjusted to manufacturer's specifications, if these adjustments were made incorrectly prior to the first test, and other maintenance or repairs may be performed in accordance with § 85.478–6. All work on the vehicle shall be done at such location and under such conditions as the Administrator may prescribe.

(B) The vehicle will be retested by the Administrator and the results of this test shall comprise the official data for the emission data vehicle.

(4) If sufficient durability data are not available at the time of any emission test conducted under paragraph (a) of this section to enable the Administrator to determine whether an emission data vehicle would fail, the manufacturer may request a retest in accordance with the provisions of paragraphs (b)(3)(ii)(a) and (b) of this section. A request for retest must be made before the manufacturer removes the vehicle from the test premises.

§ 85.478–30 Certification.

(a)(1) If, after a review of the test reports and data submitted by the manufacturer, data derived from any inspection carried out under § 85.406(c), and any other pertinent data or information, the Administrator determines that a test vehicle(s) meets the requirements of the Act and of this subpart, he will issue a certificate of conformity with respect to such vehicle(s) except in cases covered by paragraph (c) of this section.

(2) Such certificate will be issued for such period not to exceed one year of production as the Administrator may determine and upon such terms as he may deem necessary to assure that any new motorcycle covered by the certificate will meet the requirements of the Act and of this subpart. Each such certificate shall contain the following language:

This certificate covers only those new motor cycles which conform, in all material respects, to the design specifications that applied to those vehicles described in the application for certification and which are produced during the — year of production period of the said manufacturer, as defined in 40 CFR 85.402(a)(3).

It is a term of this certificate that the manufacturer shall consent to all inspections described in 40 CFR 85.406(c) which concern either the vehicle certified, or any production vehicle covered by this certificate, or any production vehicle which when completed will be claimed to be covered by this certificate. Failure to comply with all the requirements of § 85.406(c) with respect to any such vehicle may lead to revocation or suspension of this certificate as specified in 40 CFR 85.478–30(c). It is also a term of this certificate that this certificate may be revoked or suspended for the other reasons stated in § 85.478–30(c).

(3) One such certificate will be issued for each engine-system combination and will certify compliance with no more than one set of applicable standards.

(b)(1) The Administrator will determine whether a vehicle covered by the application complies with applicable standards by observing the following relationships:

(i) A test vehicle selected under § 85.478–5(b) shall represent all vehicles of the same configuration as specified by the Administrator.

(ii) A test vehicle selected under § 85.478–5(c)(1) shall represent all vehicles of the same engine-system combination.

(2) The Administrator will proceed as in paragraph (a) of this section with respect to the vehicles belonging to an engine-system combination all of which comply with one set of applicable standards.

(3) If, after a review of the test reports and data submitted by the manufacturer, data derived from any additional testing conducted pursuant to § 85.478–29, data or information derived from any inspection carried out under § 85.406(c), or any other pertinent data or information, the Administrator determines that one or more test vehicles of the certification test fleet do not meet applicable standards, he will notify the manufacturer in writing, setting forth the basis for his determination. Within 30 days following receipt of the notification, the manufacturer may request a hearing on the Administrator's determination. The request shall be in writing, signed by an authorized representative of the manufacturer and shall include a statement specifying the manufacturer's objections to the Administrator's determination, and data in support of such objections. If, after a review of the request and supporting data, the Administrator finds that the request raises a substantial factual issue, he shall provide the manufacturer a hearing in accordance with § 85.405 with respect to such issue.

(4) The manufacturer may, at his option, proceed with any of the following alternatives with respect to any engine-system combination represented by a test vehicle(s) determined not in compliance with applicable standards:

(i) Request a hearing under § 85.405 or,

(ii) Delete from the application for certification the vehicles represented by the failing test vehicle. (Vehicles so deleted may be included in a later request for certification under § 85.478–32.) The Administrator will then select in place of each failing vehicle an alternate vehicle chosen in accordance with selection criteria employed in selecting the vehicle that failed, or

(iii) Repair the test vehicle and demonstrate by testing that it meets applicable standards. Another vehicle which is in all material respects the same as the first vehicle, as repaired, shall then be operated and tested in accordance with applicable test procedures.

(5) If the manufacturer does not request a hearing or present the required data under subparagraph (4) of this paragraph, the Administrator will deny certification.

(c)(1) Notwithstanding the fact that any certification vehicle(s) may comply with other provisions of this subpart, the Administrator may withhold or deny the issuance of a certificate of conformity (or suspend or revoke any such certificate which has been issued) with respect to any such vehicle(s) if:

(i) The manufacturer submits false or incomplete information in his application for certification thereof; or

(ii) The manufacturer renders inaccurate or invalid any test data which he submits pertaining thereto or otherwise circumvents the intent of the Act or of this subpart with respect to such vehicle; or

(iii) Any EPA Enforcement Officer is denied access on the terms specified in § 85.406(c) to any facility or portion thereof which contains any of the following:

(A) The vehicle, or

(B) Any components used or considered for use in its modification or build up into a certification vehicle, or

(C) Any production vehicle which is or will be claimed by the manufacturer to be covered by the certificate, or

(D) Any step in the construction of a vehicle described in (c) of this subdivision, or

(E) Any records, documents, reports or histories required by this part to be kept concerning any of the above.

(iv) Any EPA Enforcement Officer is denied "reasonable assistance" (as defined in § 85.406(c)) in examining any of the items listed in paragraph (c)(1)(iii) of this section.

(2) The sanctions of withholding, denying, revoking, or suspending of a certificate may be imposed for the reasons in paragraphs (c)(1)(i), (ii), (iii), or (iv) of this section only when the infraction is substantial.

(3) In any case in which a manufacturer knowingly submits false or inaccurate information or knowingly renders inaccurate or invalid any test data or commits any other fraudulent acts and such acts contribute substantially to the Administrator's decision to issue a certificate of conformity, the Administrator may deem such certificate void ab initio.

(4) In any case in which certification of a vehicle is proposed to be withheld, denied, revoked, or suspended under paragraph (c)(1)(iii) or (c)(1)(iv) of this section, and in which the Administrator has presented to the manufacturer involved reasonable evidence that a violation of § 85.406(c) in fact occurred, the manufacturer, if he wishes to contend that, even though the violation occurred, the vehicle in question was not involved in the violation to a degree that would warrant withholding, denial, revocation, or suspension of certification under either paragraph (c)(1)(iii) or (c)(1)(iv) of this section, shall have the burden of establishing that contention to the satisfaction of the Administrator.

(5) Any revocation or suspension of certification under paragraph (c)(1) of this section shall:

(i) Be made only after the manufacturer concerned has been offered an opportunity for a hearing conducted in accordance with § 85.405 hereof.

(ii) Extend no further than to forbid the introduction into commerce of vehicles previously covered by the certification which are still in the hands of the manufacturer, except in cases of such fraud or other misconduct as makes the certification invalid ab initio.

(6) The manufacturer may request in the form and manner specified in paragraph (b)(3) of this section that any determination made by the Administrator under paragraph (c)(1) of this section to withhold or deny certification be reviewed in a hearing conducted in accordance with § 85.405. If the Administrator finds, after a review of the request

and supporting data, that the request raises a substantial factual issue, he will grant the request with respect to such issue.

§ 85.478–31 Separate certification.

Where possible, a manufacturer should include in a single application for certification a description of all vehicles for which certification is required. A manufacturer may, however, choose to apply separately for certification of part of his product line. The selection of test vehicles and the computation of test results will be determined separately for each application.

§ 85.478–32 Addition of a vehicle after certification.

(a) If a manufacturer proposes to add to his product line a vehicle of the same engine-system combination as vehicles previously certified but which was not described in the application for certification when the test vehicle(s) representing other vehicles of that combination was certified, he shall notify the Administrator. Such notification shall be in advance of the addition unless the manufacturer elects to follow the procedure described in § 35.478–34. This notification shall include a full description of the vehicle to be added.

(b) The Administrator may require the manufacturer to perform such tests on the test vehicle(s) representing the vehicle to be added which would have been required if the vehicle had been included in the original application for certification.

(c) If, after a review of the test reports and data submitted by the manufacturer, and data derived from any testing conducted under § 85.478–29, the Administrator determines that the test vehicle(s) meets all applicable standards, the appropriate certificate will be amended accordingly. If the Administrator determines that the test vehicle(s) does not meet applicable standards, he will proceed under § 85.478–30(b).

§ 85.478–33 Changes to a vehicle covered by certification.

(a) The manufacturer shall notify the Administrator of any intended change in production vehicles that would cause such vehicles not to conform to any of the specifications and parameters of Appendix VIIa as described in the appropriate application for certification, giving a full description of the change. Such notification shall constitute a proposed amendment to the application on which certification of the original vehicle was based and shall be in advance of the change unless the manufacturer elects to follow the procedures described in § 85.-478–34.

(b) Based upon the description of the change, and data derived from such testing as the Administrator may require or conduct, the Administrator will determine whether the application for certification may be amended as proposed so that the changed vehicles will be covered by the certificate of conformity then in effect.

(c) If the Administrator determines that such an amendment to the outstanding certificate is justified, he shall notify the manufacturer in writing granting the amendment. Except as provided in § 85.478–34, the change may not be put into effect prior to the manufacturer's receiving this notification. If the Administrator determines that the modified vehicles will not be covered by the certificate of conformity, he will notify the manufacturer in writing. The manufacturer may then, at his option, proceed with either of the following with respect to the disapproved change:

(1) Request a hearing as provided under § 85.478–30(b)(3); or

(2) In the event the failure can be shown to the satisfaction of the Administrator to be attributable to a vehicle malfunction, repair the test vehicle, and demonstrate by testing that the repaired vehicle meets applicable standards. Another vehicle which conforms in all material respects to the same design specifications that applied to the repaired vehicle, shall then be operated and tested in accordance with applicable test procedures.

§ 85.478–34 Alternative procedure for amending certificates of conformity.

(a) A manufacturer, in lieu of notifying the Administrator in advance of an addition of a vehicle under § 85.478–32 or a change in a vehicle under § 85.478–33, may notify him by appropriate amendment to the application for certification concurrently with the making of the change or addition if the manufacturer determines on the basis of emission data that the addition or change will not adversely affect (cause to increase above the applicable standards) emissions from the affected vehicles. Upon such notification, the manufacturer may proceed to put the addition or change into effect. The applicable certificate of conformity then in effect will be deemed amended as set forth in the amended application unless and until the amendment is rejected by the Adnrinistrator under paragraph (c) of this section.

(b) The manufacturer may continue to produce vehicles as described in the amendment to the application for certification for a maximum of 30 days, unless the Administrator grants an extension in writing. This period may be shortened by a notification in accordance with paragraph (c) of this section.

(c) If the Administrator determines, based upon the description of the amendment to the application, that no additional test data will be required, he will notify the manufacturer in writing of the acceptability of the amended application. If the Administrator determines that additional test data will be required, he will so notify the manufacturer and proceed as in § 85–478–32 (b) and (c), or § 85.478–33 (b) and (c) as appropriate.

(d) Election to produce vehicles under this section will be deemed to be a consent to recall all vehicles which the Administrator determines under §§ 85.478–32 or 85.478–33 do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.

(e) Any changed or added vehicles produced after the manufacturer is notified of the rejected application amendment will not be covered by a certificate of conformity.

§ 85.478–35 Labeling.

(a)(1) The manufacturer of any motorcycle subject to the standards prescribed in § 85.478–1 shall at the time of manufacture, affix a permanent, legible label, of the type and in the manner described below, containing the information hereinafter provided, to all production models of such vehicles available for sale to the public and covered by a certificate of conformity under § 85.478–30(a).

(2) A plastic or metal label shall be welded, riveted, or otherwise permanently attached in a readily visible position on the motorcycle frame.

(3) The label shall be affixed by the vehicle manufacturer, who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label.

(4) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(i) The label heading: Vehicle Emission Control Information;

(ii) Full corporate name and trademark of the manufacturer;

(iii) Engine displacement (in cubic centimeters) and engine family identification;

(iv) Engine tuneup specifications and adjustments, as recommended by the manufacturer, including idle speed, ignition timing, and the idle air-fuel mixture setting procedure and value (e.g. idle CO, idle air-fuel ratio, idle speed drop). These specifications should indicate the proper transmission position during tuneup;

(v) Any specific fuel or engine lubricant requirements (e.g. lead content, Research octane number, engine lubricant type);

(vi) The statement: "This Vehicle Conforms to U.S.E.P.A. Regulations Applicable to 1978 Year of Production New Motorcycles."

(b) The provisions of this section shall not prevent a manufacturer from also reciting on the label that such vehicle conforms to any applicable State emission standards for new motorcycles or any other information that such manufacturer deems necessary for, or useful to, the proper operation and satisfactory maintenance of the vehicle.

§ 85.478–36 Submission of vehicle identification numbers.

(a) The manufacturer of any motorcycle covered by a certificate of conformity under § 85.478–30(a) shall, not later than 60 days after its manufacture, submit to the Administrator the vehicle identification number of such vehicle: Provided, That this requirement

shall not apply with respect to any vehicle manufactured within any State, as defined in section 302(d) of the Act.

(b) The requirements of this section may be waived with respect to any manufacturer who provides information satisfactory to the Administrator which will enable the Administrator to identify those vehicles which are covered by a certificate of conformity.

§ 85.478–37 Production vehicles.

(a) Any manufacturer obtaining certification under this subpart shall supply to the Administrator, upon his request, a reasonable number of production vehicles selected by the Administrator which are representative of the engines, emission control systems, fuel systems, and transmissions offered and typical of production models available for sale under the certificate. These vehicles shall be supplied for testing at such time and place and such reasonable periods as the Administrator may require.

(b) Any manufacturer obtaining certification under this subpart shall notify the Administrator, on a quarterly basis, of the number of vehicles of each engine family-engine displacement-emission control system-fuel system-transmission type-inertial mass category combination produced for sale in the United States during the preceding quarter. A manufacturer may elect to provide this information every 60 days instead of quarterly, to combine it with the notification required under § 85.478–36.

(c) All motorcycles covered by a certificate of conformity under § 85.478–30(a) shall be adjusted by the manufacturer to the ignition timing specification detailed in § 85.478–35(a)(4)(iv).

§ 85.478–38 Maintenance instructions.

(a) The manufacturer shall furnish or cause to be furnished to the ultimate purchaser of each new motorcycle subject to the standards prescribed in § 85.478–1, written instructions for the maintenance and use of the vehicle by the ultimate purchaser as may be reasonable and necessary to assure the proper functioning of emission control systems.

(1) Such instructions shall be provided for those vehicle and engine components listed in Appendix VI to this part (and for any other components) to the extent that maintenance of these components is necessary to assure the proper functioning of emission control systems.

(2) Such instructions shall be in the English language and in clear, and to the extent practical, nontechnical language.

(b) The maintenance instructions required by this section shall contain a general description of the documentation which the manufacturer will require from the ultimate purchaser or any subsequent purchaser as evidence of compliance with the instructions. (Such instructions shall specify the performance of all scheduled maintenance performed by the manufacturer under § 85.478–6(a).)

§ 85.478–39 Submission of maintenance instructions.

(a) The manufacturer shall provide to the Administrator, no later than the time of the submission required by § 85.478–4, a copy of the maintenance instructions which the manufacturer proposes to supply to the ultimate purchaser in accordance with § 85.478–38(a). The Administrator will review such instructions to determine whether they are reasonable and necessary to assure the proper functioning of the vehicle's emission control systems. The Administrator will notify the manufacturer of his determination whether such instructions are reasonable and necessary to assure the proper functioning of the emission control systems.

(b) Any revision to the maintenance instructions which will affect emissions shall be supplied to the Administrator at least 30 days before being supplied to the ultimate purchaser unless the Administrator consents to a lesser period of time.

§ 85.479–1 Emission standards for 1979 year of production vehicles.

The standards and test procedures set forth in § 85.478 remain applicable for the 1979 year of production.

§ 85.480–1 Emission standards for 1980 years of production vehicles.

With the exception of the hydrocarbons, carbon monoxide, and oxides of nitrogen exhaust emission standards, the standards and test procedures set forth in § 85.478 remain applicable for the 1980 year of production. Exhaust emissions from 1980 year of production vehicles shall not exceed:

(a) Hydrocarbons. 0.25 gram per vehicle kilometer.

(b) Carbon monoxide. 2.1 grams per vehicle kilometer.

(c) Oxides of nitrogen. 0.25 gram per vehicle kilometer.

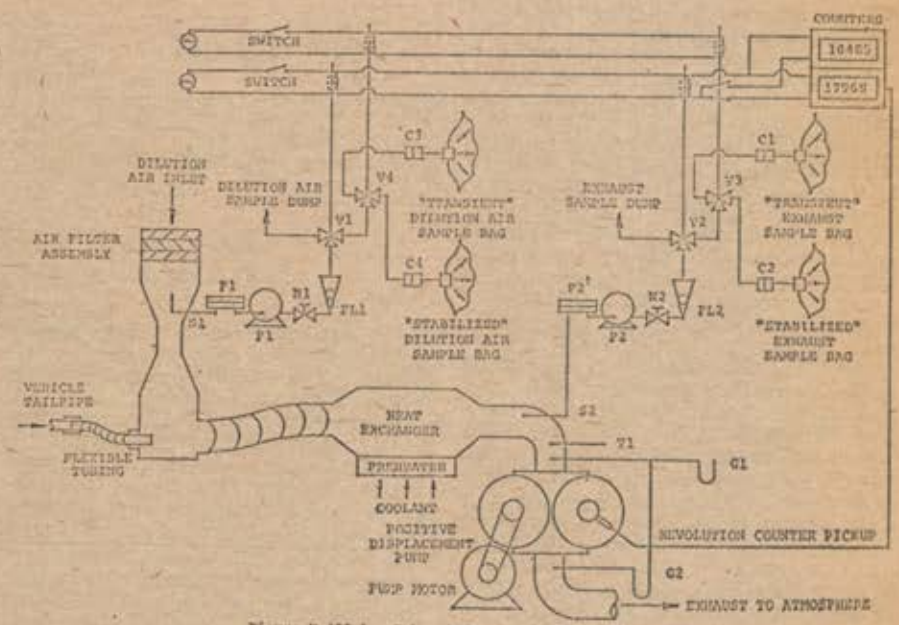
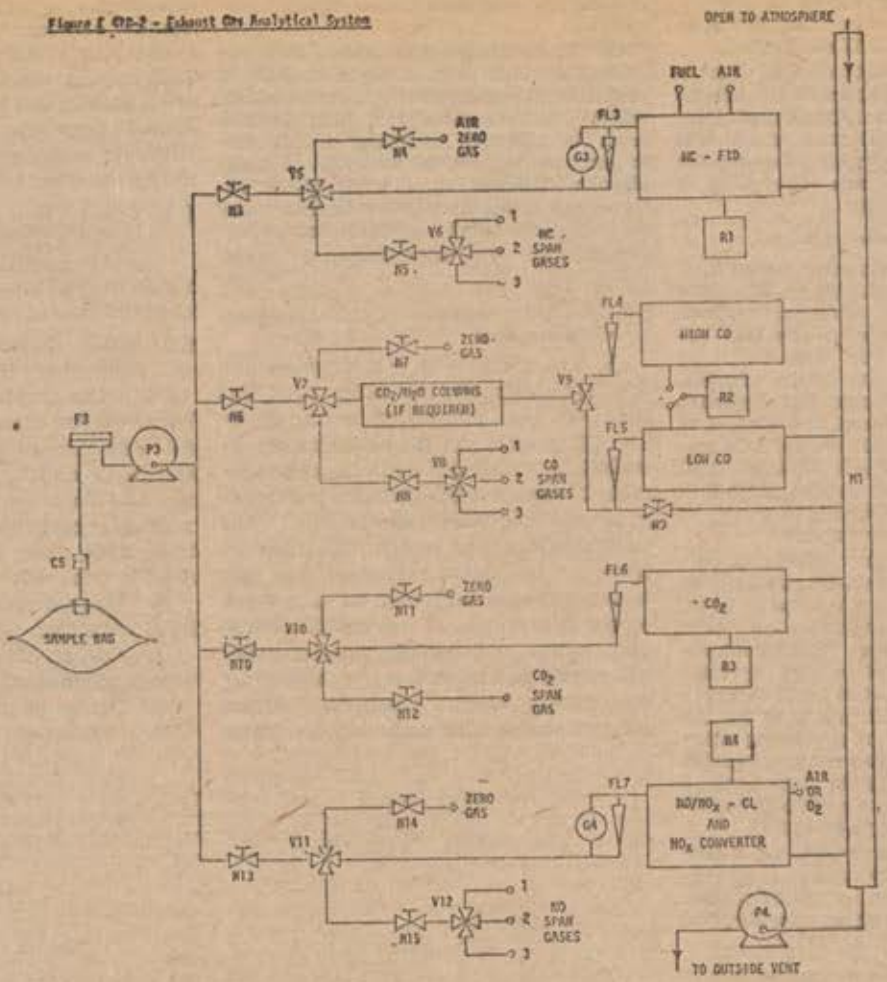


Figure E 478-1 – Exhaust Gas Sampling System

Figure E CD-2 - Exhaust CO Analytical System



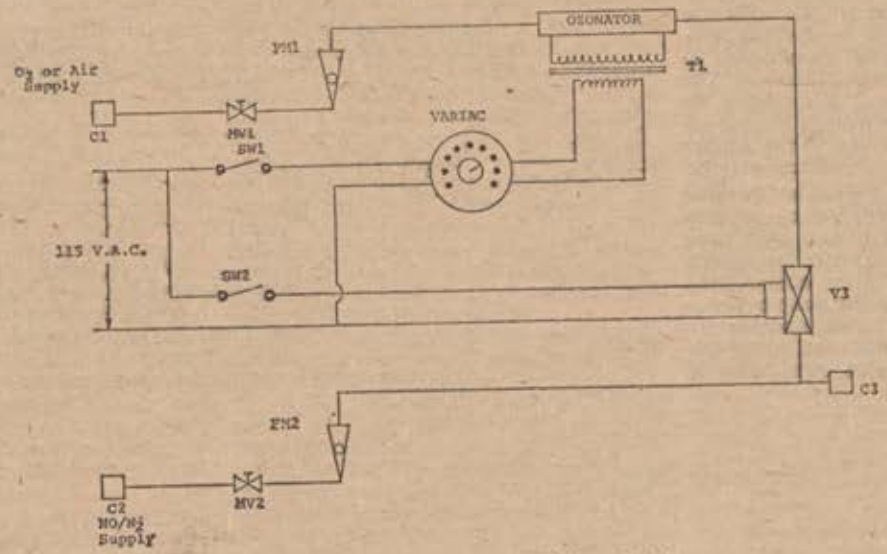


Figure M 478-7 - NOx Converter Efficiency Detector

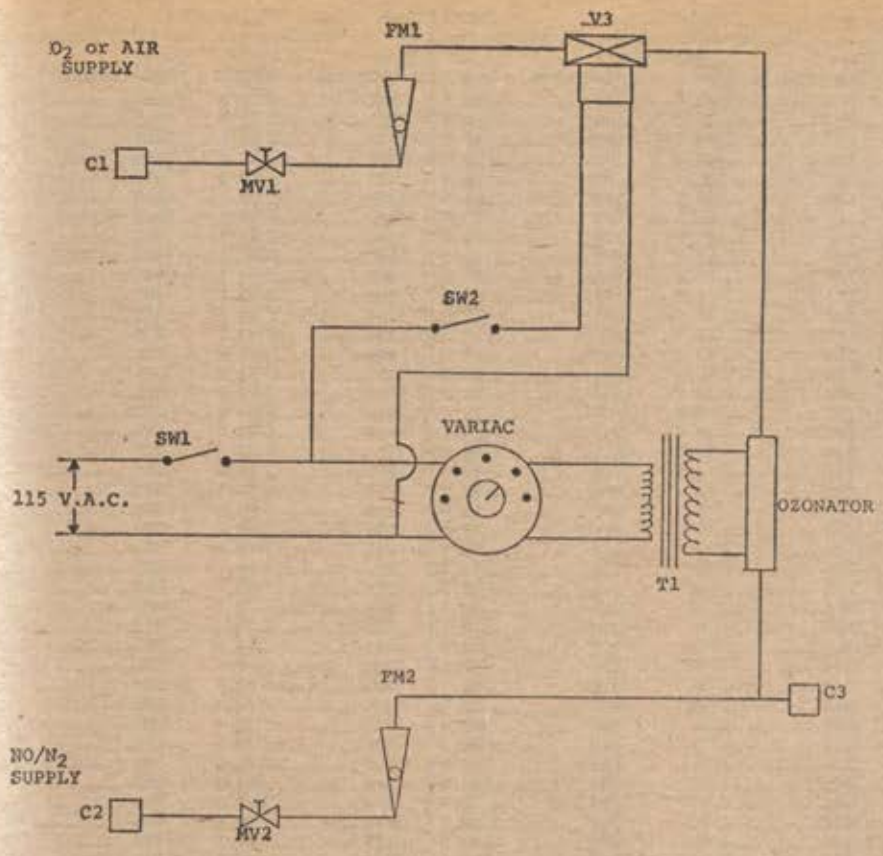


Figure E 478-8 - NOx Converter Efficiency Detector

[FR Doc.75-28178 Filed 10-21-75;8:45 am]

[FRL 437-8]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Appendices to Motor Vehicle Emission Regulations

Notice is hereby given that the Environmental Protection Agency is considering the revision of the Appendices to Part 85 of Title 40 of the Code of Federal Regulations.

This proposed revision is largely the result of the proposed addition to 40 CFR Part 85 of motorcycle emission regulations. In addition, these appendices are being proposed in the International System of Units (SI) in order to continue the process of conversion for 40 CFR Part 85.

Listed below are the major features of this proposed rule making.

(1) Appendix I(a) is the EPA urban dynamometer driving schedule expressed in a speed (in kilometers per hour (kph)) versus time (in seconds) sequence. If these rounded kph numbers are reconverted to mph numbers and subsequently rounded, the new mph numbers will be slightly different (one tenth of a mph), in a few scattered cases, from the original mph numbers due to the rounding process. However, it is not the EPA's intention to change the current urban driving schedule. Instead, the Agency intends to continue using the original driving schedule trace while changing to the appropriate kph references on the trace.

Appendix I(b) is the modified EPA urban dynamometer driving schedule applicable to motorcycles with engine displacements less than 170 cc (10.4 cu. in.).

(2) Appendix II(a) converts the speeds at which the dynamometer is calibrated to SI units. In addition, the calculation of absorbed road load power is expressed in watts.

Appendix II(b) is the appropriate dynamometer calibration expressed in SI units for motorcycles.

(3) Appendix III, the CVS flow calibration, is likewise converted to SI units. Many of the specifications have been changed very slightly so that convenient SI numbers are used during the calibration.

(4) The durability driving schedule has been divided into three sections. Appendix IV(a) is the same durability schedule currently used by passenger automobile and light truck manufacturers. Appendix IV(b) is this schedule converted to SI units with speeds rounded to convenient SI numbers. Appendix IV(b) will be applicable to motorcycles with engine displacements equal to or greater than 170 cc (10.4 cu. in.). In addition, this schedule may also be used by manufacturers of light duty vehicles, diesel light duty vehicles, light duty trucks, and diesel light duty trucks at their option. It is presently the Agency's intention to delete Appendix IV(a) within the next few years and substitute Appendix IV(b) for those manufacturers using IV(a).

Appendix IV(c) is the durability driving schedule for motorcycles with engine displacements less than 170 cc (10.4 cu. in.). It is similar to Appendix IV(b) with a revised speed for lap eleven more appropriate to the top speed of these vehicles.

Due to the possibility of a motorcycle's front wheel leaving the ground under wide open throttle, a provision has been added to Appendices IV (b) and (c) to allow modification of the durability schedule with the advance approval of the Administrator.

(5) Appendix VI is a slightly revised list of those components which may affect emissions from motor vehicles and used in the preparation of maintenance instructions by manufacturers.

(6) Appendix VII was proposed originally on December 23, 1974 (FR, Vol. 39, No. 247). It is included in this NPRM to solicit comments on incorporating it in the motorcycle regulations. It has been changed slightly in order to include the parameter, oil injection metering system, commonly found on motorcycles and to incorporate SI terminology.

Comments are solicited from light duty vehicle, diesel light duty vehicle, light duty truck, diesel light duty truck, gasoline fueled heavy duty engine, and diesel heavy duty engine manufacturers and other interested parties on the SI conversion and subsequent rounding of the Appendices to 40 CFR Part 85. In addition, comments are solicited from motorcycle manufacturers on including these proposed Appendices in the motorcycle emission regulations.

Interested persons may participate in the rule making proceeding by submitting written comments to: Deputy Assistant Administrator, Office of Mobile Source Air Pollution Control, 401 M Street, SW., Washington, D.C. 20460. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on January 20, 1976 will be considered. To the extent possible, comments filed after the closing date will also be considered. Comments received pursuant to this proposal will be available for public inspection and copying at the U.S. Environmental Protection Agency Public Information Reference

Unit, Room 2922 (EPA Library), 401 M Street, SW., Washington, D.C. 20460.

Final regulations, modified as the Administrator deems appropriate after consideration of comments to the NPRM, will be promulgated as soon as practicable after such consideration.

This Notice of Proposed Rule Making is issued under the authority of Sections 202, 206, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857f–1, 1857f–5, and 1857g(a)).

Dated: October 14, 1975.

JOHN QUARLES,
Acting Administrator.

APPENDIX I

URBAN DYNAMOMETER DRIVING SCHEDULES

(a) EPA Urban Dynamometer Driving Schedule for Light Duty Vehicles, Diesel Light Duty Vehicles, Light Duty Trucks, Diesel Light Duty Trucks, and Motorcycles with engine displacements equal to or greater than 170 cc (10.4 cu. in.).

SPEED VERSUS TIME SEQUENCE

Time (seconds):	Speed (kilometers per hour)
0	0
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	4.8
22	9.5
23	13.8
24	18.5
25	23.0
26	27.2
27	27.8
28	29.1
29	33.3
30	34.9
31	36.0
32	36.2
33	35.6
34	34.6
35	33.6
36	32.8
37	31.9
38	27.4
39	24.0
40	24.0
41	24.5
42	24.9
43	25.7
44	27.5
45	30.7
46	34.0
47	36.5
48	36.9
49	36.5
50	36.4
51	34.3
52	30.6
53	27.5
54	25.4
55	25.4
56	28.5
57	31.9
58	34.8
59	37.3
60	38.9
61	39.6
62	40.1
63	40.2
64	39.6
65	39.4
66	39.8
67	39.9
68	39.8
69	39.6
70	39.6
71	40.4
72	41.2
73	41.4
74	40.9
75	40.1
76	40.2
77	40.9
78	41.8
79	41.8
80	41.4
81	42.0
82	43.0
83	44.3
84	46.0
85	47.2
86	48.0
87	48.4
88	48.9
89	49.4
90	49.4
91	49.1
92	48.9
93	48.8
94	48.9
95	49.6
96	48.9
97	48.1
98	47.5
99	48.0
100	48.8
101	49.4
102	49.7
103	49.9
104	49.7
105	48.9
106	48.0
107	48.1
108	48.6
109	49.4
110	50.2
111	51.2
112	51.8
113	52.1
114	51.8
115	51.0
116	46.0
117	40.7
118	35.4
119	30.1
120	24.8
121	19.5
122	14.2
123	8.9
124	3.5
125	0
126	0
127	0
128	0
129	0
130	0
131	0
132	0
133	0
134	0
135	0
136	0
137	0
138	0
139	0
140	0
141	0
142	0
143	0
144	0
145	0
146	0
147	0
148	0
149	0
150	0
151	0
152	0
153	0
154	0
155	0
156	0
157	0
158	0
159	0
160	0
161	0
162	0
163	0
164	5.3
165	10.6
166	15.9
167	21.2
168	26.6
169	31.9
170	35.7
171	39.1
172	41.5
173	42.5
174	41.4
175	40.4
176	39.8
177	40.2
178	40.6
179	40.9
180	41.5
181	43.8
182	42.6
183	38.6
184	36.5
185	31.2
186	28.5
187	27.7
188	29.1
189	29.9
190	32.2
191	35.7
192	39.4
193	43.9
194	49.1
195	53.9
196	58.3
197	60.0
198	63.2
199	65.2
200	67.8
201	70.0
202	72.6
203	74.0
204	75.3
205	76.4
206	76.4
207	76.1
208	76.0
209	75.6
210	75.6
211	75.6
212	75.6
213	75.6
214	76.0
215	76.5
216	77.1
217	78.1
218	79.0
219	79.7
220	80.5
221	81.4
222	82.1
223	82.9
224	84.0
225	85.6
226	87.1
227	87.9
228	88.4
229	88.5
230	88.4
231	87.9
232	87.9
233	88.2
234	88.7
235	89.3
236	89.6
237	90.3
238	90.6
239	91.1
240	91.2
241	91.2
242	90.9
243	90.9
244	90.9
245	90.9
246	90.9
247	90.9
248	90.6
249	90.3
250	89.8
251	89.7
252	87.9
253	87.2
254	86.9
255	86.4
256	86.3
257	86.7
258	86.9
259	87.1
260	87.1
261	86.6
262	85.9
263	85.3
264	84.7
265	83.8
266	84.3
267	83.7
268	83.5
269	83.2
270	82.9
271	83.0
272	83.4
273	83.8
274	84.5
275	85.3
276	86.1
277	86.9
278	88.4
279	89.2
280	89.5
281	90.1
282	90.1
283	89.8
284	88.8
285	87.7
286	86.3
287	84.5
288	82.9
289	82.9
290	82.9
291	82.2
292	80.6
293	80.5
294	80.6
295	80.5
296	79.8
297	79.7
298	79.7
299	79.7
300	79.0
301	78.2
302	77.4
303	76.0
304	74.2
305	72.4
306	70.5
307	68.6
308	66.8
309	64.9
310	62.0
311	59.5
312	56.6
313	54.4
314	52.3
315	50.7
316	49.2
317	49.1
318	48.3
319	46.7
320	44.3
321	39.9
322	34.6
323	32.3
324	30.7
325	29.8
326	27.4
327	24.9
328	20.1
329	17.4
330	12.9
331	7.6
332	2.3
333	0
334	0
335	0
336	0
337	0
338	0
339	0
340	0
341	0
342	0
343	0
344	0
345	0
346	0
347	1.6
348	6.9
349	12.2
350	17.5
351	22.9
352	27.8
353	32.2
354	36.2
355	38.1
356	40.6
357	42.8
358	45.2
359	48.3
360	49.6
361	50.9
362	51.7
363	52.8
364	54.1
365	55.5
366	55.7
367	56.2
368	56.0
369	55.5
370	55.8
371	57.1
372	57.9
373	57.9
374	57.9
375	57.9
376	57.9
377	57.9
378	58.1
379	58.6
380	58.7
381	58.6
382	57.9
383	56.5
384	54.9
385	53.9
386	50.5
387	46.7
388	41.4
389	37.0
390	32.7
391	28.2
392	23.3
393	19.3
394	14.0
395	8.7
396	3.4
397	0
398	0
399	0
400	0
401	0
402	0
403	4.2
404	9.5
405	14.8
406	20.1
407	25.4
408	30.7
409	36.0
410	40.2
411	41.2
412	44.3
413	46.7
414	48.3
415	48.4
416	48.3
417	47.8
418	47.2
419	46.3
420	45.1
421	40.2
422	31.9
423	29.6
424	24.8
425	19.0
426	13.7
427	8.4
428	3.1
429	0
430	0
431	0
432	0
433	0
434	0
435	0
436	0
437	0
438	0
439	0
440	0

Time (seconds):	Speed (kilometers per hour)
441	0
442	0
443	0
444	0
445	0
446	0
447	0
448	5.3
449	10.6
450	15.9
451	21.2
452	26.6
453	31.9
454	37.2
455	42.5
456	44.7
457	46.8
458	50.7
459	53.1
460	54.1
461	56.0
462	56.5
463	57.3
464	58.1
465	57.9
466	58.1
467	58.3
468	57.9
469	57.5
469	57.5
470	57.9
471	57.9
472	57.3
473	57.1
474	57.0
475	56.6
476	56.6
477	56.6
478	56.6
479	56.6
480	56.6
481	56.3
482	56.5
483	56.6
484	57.1
485	56.6
486	56.3
487	56.3
488	56.3
489	56.0
490	55.7
491	55.5
492	53.9
493	51.5
494	48.4
495	45.1
496	41.0
497	36.2
498	31.9
499	26.6
500	21.2
501	16.6
502	11.6
503	6.4
504	1.6
505	0
506	0
507	0
508	0
509	0
510	0
511	1.9
512	5.6
513	8.9
514	10.5
515	13.7
516	15.4
517	16.9
518	19.2
519	22.5
520	25.7
521	28.5
522	30.6
523	32.3
524	33.8
525	35.4
526	37.0
527	38.3
528	39.4
529	40.1
530	40.2
531	40.2
532	40.2
533	40.2
534	40.2
535	40.2
536	41.2
537	41.5
538	41.8
539	41.2
540	40.6
541	40.2
542	40.2
543	40.2
544	39.3
545	37.2
546	31.9
547	26.6
548	21.2
549	15.9
550	10.6
551	5.3
552	0
553	0
554	0
555	0
556	0
557	0
558	0
559	0
560	0
561	0
562	0
563	0
564	0
565	0
566	0
567	0
568	0
569	5.3
570	10.6
571	15.9
572	20.9
573	23.5
574	25.7
575	27.4
576	27.4
577	27.4
578	28.2
579	28.5
580	28.5
581	28.2
582	27.4
583	27.2
584	26.7
585	27.4
586	27.5
587	27.4
588	26.7
589	26.6
590	26.6
591	26.7
592	27.4
593	28.3
594	29.8
595	30.9
596	32.5
597	33.8
598	34.0
599	34.1
600	34.8
601	35.4
602	36.0
603	36.2
604	36.2
605	36.2
606	36.5
607	38.1
608	40.4
609	41.8
610	42.6
611	43.5
612	42.0
613	36.7
614	31.4
615	26.1
616	20.8
617	15.4
618	10.1
619	4.8
620	0
621	0
622	0
623	0
624	0
625	0
626	0
627	0
628	0
629	0
630	0
631	0
632	0
633	0
634	0
635	0
636	0
637	0
638	0
639	0
640	0
641	0
642	0
643	0
644	0
645	0
646	3.2
647	7.2
648	12.6
649	16.4
650	20.1
651	22.5
652	24.6
653	28.2
654	31.5
655	33.8
656	35.7
657	37.5
658	39.4
659	40.7
660	41.2
661	41.8
662	42.0
663	42.2
664	42.2
665	42.5
666	42.6
667	42.6
668	41.8
669	41.0
670	38.0
671	34.4
672	29.8
673	26.4
674	23.3
675	18.7
676	14.0
677	9.3
678	5.6
679	3.2
680	0
681	0
682	0
683	0
684	0
685	0
686	0
687	0
688	0
689	0
690	0
691	0
692	0
693	0
694	2.3
695	5.3
696	7.1
697	10.5
698	14.8
699	18.2
700	21.7
701	23.5
702	26.4
703	26.9
704	26.6
705	26.6
706	29.3
707	30.9
708	32.3
709	34.6
710	36.2
711	36.2
712	35.6
713	36.5
714	37.5
715	37.8
716	36.2
717	34.8
718	33.0
719	29.0
720	24.1
721	19.3
722	14.5
723	10.0
724	7.2
725	4.8
726	3.4
727	0.8
728	0.8
729	5.1
730	10.5
731	15.4
732	20.1
733	22.5
734	25.7
735	29.0
736	31.5
737	34.6
738	37.2
739	39.4
740	41.0
741	42.6
742	43.6
743	44.4
744	44.9
745	45.5
746	46.0
747	46.0
748	45.5
749	45.4
750	45.1
751	44.3
752	43.1
753	41.0
754	37.8
755	34.6
756	30.6
757	26.6
758	24.0
759	20.1
760	15.1
761	10.0
762	4.8
763	2.4
764	2.4
765	0.8
766	0
767	4.8
768	10.1
769	15.4
770	20.8
771	25.4
772	28.2
773	29.6
774	31.4
775	33.3
776	35.4
777	37.3
778	40.2
779	42.6
780	44.3
781	45.1
782	45.5
783	46.5
784	46.5
785	46.5
786	46.3
787	45.9
788	45.5
789	45.5
790	45.5
791	45.4
792	44.4
793	44.3
794	44.3
795	44.3
796	44.3
797	44.3
798	44.3
799	44.4
800	45.1
801	45.9
802	48.3
803	49.9
804	51.5
805	53.1
806	53.1
807	54.1
808	54.7
809	55.2
810	55.0
811	54.7
812	54.7
813	54.6
814	54.1
815	53.3
816	53.1
817	52.3
818	51.5
819	51.3
820	50.9
821	50.7
822	49.2
823	48.3
824	48.1
825	48.1
826	48.1
827	48.1
828	47.6
829	47.5
830	47.5
831	47.2
832	46.5
833	45.4
834	44.6
835	43.5
836	41.0
837	38.1
838	35.4
839	33.0
840	30.9
841	30.9
812	32.3
843	33.6
844	34.4
845	35.4
846	36.4
847	37.3
848	38.6
849	40.2
850	41.8
851	42.8
852	42.8
853	43.1
854	43.5
855	43.8
856	44.7
857	45.2
858	46.3
859	46.5
860	46.7
861	46.8
862	46.7
863	45.2
864	44.3
865	43.5
866	41.5
867	40.2
868	39.4
869	39.9
870	40.4
871	41.0
872	41.4
873	42.2
874	43.3
875	44.3
876	44.7
877	45.7
878	46.7
879	47.0
880	46.8
881	46.7
882	46.5
883	45.9
884	45.2
885	45.1
886	45.1
887	44.4
888	43.8
889	42.8
890	43.5
891	44.3
892	44.7
893	45.1
894	44.7
895	45.1
896	45.1
897	45.1
898	44.6
899	44.1
900	43.3
901	42.8
902	42.6
903	42.6
904	42.6
905	42.3
906	42.2
907	42.2
908	41.7
909	41.2
910	41.2
911	41.7
912	41.5
913	41.0
914	39.6
915	37.8
916	35.7
917	34.6
918	34.8
919	34.9
920	36.4
921	37.7
922	38.6
923	38.9
924	39.3
925	40.1
926	40.4
927	40.6
928	40.7
929	41.0
930	40.6
931	40.2
932	40.2
933	40.2
934	39.8
935	39.4
936	39.1
937	39.1
938	39.4
939	40.2
940	40.2

Time (seconds):	Speed (kilometers per hour)
941	39.6
942	39.6
943	38.8
944	39.4
945	40.4
946	41.2
947	40.4
948	38.6
949	35.4
950	32.3
951	27.2
952	21.9
953	16.6
954	11.3
955	6.0
956	0.6
957	0
958	0
959	0
960	3.2
961	8.5
962	13.8
963	19.2
964	24.5
965	28.2
966	29.9
967	32.2
968	34.0
969	35.4
970	37.0
971	39.4
972	42.3
973	44.3
974	45.2
975	45.7
976	45.9
977	45.9
978	45.9
979	44.6
980	44.3
981	43.8
982	43.1
983	42.6
984	41.8
985	41.4
986	40.6
987	38.6
988	35.4
989	34.6
990	34.6
991	35.1
992	36.2
993	37.0
994	36.7
995	36.7
996	37.0
997	36.5
998	36.5
999	36.5
1,000	37.8
1,001	38.6
1,002	39.6
1,003	39.9
1,004	40.4
1,005	41.0
1,006	41.2
1,007	41.0
1,008	40.2
1,009	38.8
1,010	38.1
1,011	37.3
1,012	36.9
1,013	36.2
1,014	35.4
1,015	34.8
1,016	33.0
1,017	28.2
1,018	22.9
1,019	17.5
1,020	12.2
1,021	6.9
1,022	1.6
1,023	0
1,024	0
1,025	0
1,026	0
1,027	0
1,028	0
1,029	0
1,030	0
1,031	0
1,032	0
1,033	0
1,034	0
1,035	0
1,036	0
1,037	0
1,038	0
1,039	0
1,040	0
1,041	0
1,042	0
1,043	0
1,044	0
1,045	0
1,046	0
1,047	0
1,048	0
1,049	0
1,050	0
1,051	0
1,052	0
1,053	1.9
1,054	6.4
1,055	11.7
1,056	17.1
1,057	22.4
1,058	27.4
1,059	29.8
1,060	32.2
1,061	35.1
1,062	37.0
1,063	38.6
1,064	39.9
1,065	41.2
1,066	42.6
1,067	43.1
1,068	44.1
1,069	44.9
1,070	45.5
1,071	45.1
1,072	44.3
1,073	43.5
1,074	43.5
1,075	42.3
1,076	39.4
1,077	36.2
1,078	34.6
1,079	33.2
1,080	29.0
1,081	24.1
1,082	19.8
1,083	17.9
1,084	17.1
1,085	16.1
1,086	15.3
1,087	14.6
1,088	14.0
1,089	13.8
1,090	14.2
1,091	14.5
1,092	14.0
1,093	13.8
1,094	12.9
1,095	11.3
1,096	8.0
1,097	6.8
1,098	4.2
1,099	1.6
1,100	0
1,101	0.2
1,102	1.0
1,103	2.6
1,104	5.8
1,105	11.1
1,106	16.1
1,107	20.6
1,108	22.5
1,109	23.3
1,110	25.7
1,111	29.1
1,112	32.2
1,113	33.8
1,114	34.1
1,115	34.3
1,116	34.4
1,117	34.9
1,118	36.2
1,119	37.0
1,120	38.3
1,121	39.4
1,122	40.2
1,123	40.1
1,124	39.9
1,125	40.2
1,126	40.9
1,127	41.5
1,128	41.8
1,129	42.5
1,130	42.8
1,131	43.3
1,132	43.5
1,133	43.5
1,134	43.5
1,135	43.3
1,136	43.1
1,137	43.1
1,138	42.6
1,139	42.5
1,140	41.8
1,141	41.0
1,142	39.6
1,143	37.8
1,144	34.6
1,145	32.2
1,146	28.2
1,147	25.7
1,148	22.5
1,149	17.2
1,150	11.9
1,151	6.6
1,152	1.3
1,153	0
1,154	0
1,155	0
1,156	0
1,157	0
1,158	0
1,159	0
1,160	0
1,161	0
1,162	0
1,163	0
1,164	0
1,165	0
1,166	0
1,167	0
1,168	0
1,169	3.4
1,170	8.7
1,171	14.0
1,172	19.3
1,173	24.6
1,174	29.9
1,175	34.0
1,176	37.0
1,177	37.8
1,178	37.0
1,179	36.2
1,180	32.2
1,181	26.9
1,182	21.6
1,183	16.3
1,184	10.9
1,185	5.6
1,186	0.3
1,187	0
1,188	0
1,189	0
1,190	0
1,191	0
1,192	0
1,193	0
1,194	0
1,195	0
1,196	0
1,197	0.3
1,198	2.4
1,199	5.6
1,200	10.5
1,201	15.8
1,202	19.3
1,203	20.8
1,204	20.9
1,205	20.3
1,206	20.6
1,207	21.1
1,208	21.1
1,209	22.5
1,210	24.9
1,211	27.4
1,212	29.9
1,213	31.7
1,214	33.8
1,215	34.6
1,216	35.1
1,217	35.1
1,218	34.6
1,219	34.1
1,220	34.6
1,221	35.1
1,222	35.4
1,223	35.2
1,224	34.9
1,225	34.6
1,226	34.6
1,227	34.4
1,228	32.3
1,229	31.4
1,230	30.9
1,231	31.5
1,232	31.9
1,233	32.2
1,234	31.4
1,235	28.2
1,236	24.9
1237	20.9
1238	16.1
1239	12.9
1240	9.7
1241	6.4
1242	4.0
1243	1.1
1244	0
1245	0
1246	0
1247	0
1248	0
1249	0
1250	0
1251	0
1252	1.6
1253	1.6
1254	1.6
1255	1.6
1256	1.6
1257	2.6
1258	4.8
1259	6.4
1260	8.0
1261	10.1
1262	12.9
1263	16.1
1264	16.9
1265	15.3
1266	13.7
1267	12.2
1268	14.2
1269	17.7
1270	22.5
1271	27.4
1272	31.4
1273	33.8
1274	35.1
1275	35.7
1276	37.0
1277	38.0
1278	38.8
1279	39.4
1280	39.4
1281	38.6
1282	37.8
1283	37.8
1284	37.8
1285	37.8
1286	37.8
1287	37.8
1288	38.6
1289	38.8
1290	39.4
1291	39.8
1292	40.2
1293	40.9
1294	41.2
1295	41.4
1296	41.8
1297	42.2
1298	43.5
1299	44.7
1300	45.5
1301	46.7
1302	46.8
1303	46.7
1304	45.1
1305	39.8
1306	34.4
1307	29.1
1308	23.8
1309	18.5
1310	13.2
1311	7.9
1312	2.6
1313	0
1314	0
1315	0
1316	0
1317	0
1318	0
1319	0
1320	0
1321	0
1322	0
1323	0
1324	0
1,325	0
1,326	0
1,327	0
1,328	0
1,329	0
1,330	0
1,331	0
1,332	0
1,333	0
1,334	0
1,335	0
1,336	0
1,337	0
1,338	2.4
1,339	7.7
1,340	13.0
1,341	18.3
1,342	21.2
1,343	24.3
1,344	27.0
1,345	29.5
1,346	31.4
1,347	32.7
1,348	34.3
1,349	35.2
1,350	35.6
1,351	36.0
1,352	35.4
1,353	34.8
1,354	34.0
1,355	33.0
1,356	32.2
1,357	31.5
1,358	29.8
1,359	28.2
1,360	26.6
1,361	24.9
1,362	22.5
1,363	17.7
1,364	12.9
1,365	8.4
1,366	4.0
1,367	0
1,368	0
1,369	0
1,370	0
1,371	0

(b) EPA Urban Dynamometer Driving Schedule for Motorcycles with engine displacements less than 170 cc (10.4 cu. in.).

SPEED VERSUS TIME SEQUENCE

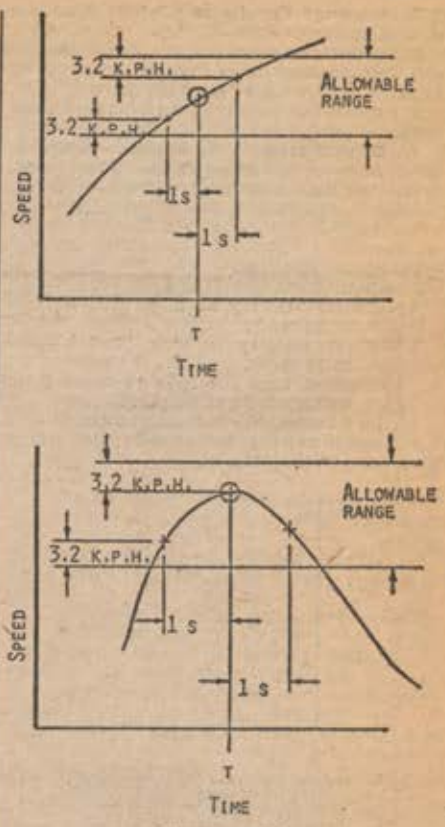
Time (seconds):	Speed (kilometers per hour)
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0
11	0
12	0
13	0
14	0
15	0
16	0
17	0
18	0
19	0
20	0
21	4.8
22	9.5
23	13.8
24	18.5
25	23.0
26	27.2
27	27.8
28	29.1
29	33.3
30	34.9
31	36.0
32	36.2
33	35.6
34	34.6
35	33.6
36	32.8
37	31.9
38	27.4
39	24.0
40	24.0
41	24.5
42	24.9
43	25.7
44	27.5
45	30.7
46	34.0
47	36.5
48	36.9
49	36.5
50	36.4
51	34.3
52	30.6

Time (seconds):	Speed (kilometers per hour)
53	27.5
54	25.4
55	25.4
56	28.5
57	31.9
58	34.8
59	37.3
60	38.9
61	39.6
62	40.1
63	40.2
64	39.6
65	39.4
66	39.8
67	39.9
68	39.8
69	39.6
70	39.6
71	40.4
72	41.2
73	41.4
74	40.9
75	40.1
76	40.2
77	40.9
78	41.8
79	41.8
80	41.4
81	42.0
82	43.0
83	44.3
84	46.0
85	47.2
86	48.0
87	48.4
88	48.9
89	49.4
90	49.4
91	49.1
92	48.9
93	48.8
94	48.9
95	49.6
96	48.9
97	48.1
98	47.5
99	48.0
100	48.8
101	49.4
102	49.7
103	49.9
104	49.7
105	48.9
106	48.0
107	48.1
108	48.6
109	49.4
110	50.2
111	51.2
112	51.8
113	52.1
114	51.8
115	51.0
116	46.0
117	40.7
118	35.4
119	30.1
120	24.8
121	19.5
122	14.2
123	8.9
124	3.5
125	0
126	0
127	0
128	0
129	0
130	0
131	0
132	0
133	0
134	0
135	0
136	0
137	0
138	0
139	0
140	0
141	0
142	0
143	0
144	0
145	0
146	0
147	0
148	0
149	0
150	0
151	0
152	0
153	0
154	0
155	0
156	0
157	0
158	0
159	0
160	0
161	0
162	0
163	0
164	3.4
165	6.8
166	10.3
167	13.7
168	17.1
169	20.5
170	23.0
171	25.2
172	26.7
173	27.4
174	26.6
175	26.0
176	25.6
177	25.9
178	26.1
179	26.3
180	26.7
181	28.2
182	27.5
183	24.9
184	23.5
185	20.1
186	18.3
187	17.8
188	18.8
189	19.3
190	20.7
191	23.0
192	25.4
193	28.3
194	31.6
195	34.7
196	37.5
197	38.6
198	40.7
199	42.0
200	43.6
201	45.1
202	46.7
203	47.7
204	48.5
205	49.2
206	49.2
207	49.0
208	48.9
209	48.7
210	48.7
211	48.7
212	48.7
213	48.7
214	48.9
215	49.1
216	49.6
217	50.2
218	50.9
219	51.3
220	51.8
221	52.4
222	52.8
223	53.4
224	54.1
225	55.1
226	56.0
227	56.6
228	56.9
229	57.0
230	56.9
231	56.6
232	56.6
233	56.8
234	57.1
235	57.5
236	57.7
237	58.1
238	58.3
239	58.6
240	58.7
241	58.7
242	58.5
243	58.5
244	58.5
245	58.5
246	58.5
247	58.5
248	58.4
249	58.1
250	57.8
251	57.1
252	56.6
253	56.2
254	55.9
255	55.6
256	55.5
257	55.8
258	55.9
259	56.0
260	56.0
261	55.7
262	55.3
263	54.9
264	54.5
265	54.0
266	54.3
267	53.9
268	53.8
269	53.6
270	53.4
271	53.5
272	53.7
273	54.0
274	54.4
275	54.9
276	55.4
277	55.9
278	56.9
279	57.4
280	57.6
281	58.0
282	58.0
283	57.8
284	57.2
285	56.5
286	55.5
287	54.4
288	53.4
289	53.4
290	53.4
291	52.9
292	51.9
293	51.8
294	51.9
295	51.8
296	51.4
297	51.3
298	51.3
299	51.3
300	50.9
301	50.3
302	49.8
303	48.9
304	47.8
305	46.6
306	45.4
307	44.1
308	43.0
309	41.8
310	39.9
311	38.3
312	36.5
313	35.0
314	33.7
315	32.6
316	31.7
317	31.6
318	31.1
319	30.0
320	28.5
321	25.7
322	22.3
323	20.8
324	19.8
325	19.2
326	17.6
327	16.1
328	12.9
329	11.2
330	8.3
331	4.9
332	1.5
333	0
334	0
335	0
336	0
337	0
338	0
339	0
340	0
341	0
342	0
343	0
344	0
345	0
346	0
347	1.6
348	6.9
349	12.2
350	17.5
351	22.9
352	27.8
353	32.2
354	36.2
355	38.1
356	40.6
357	42.8
358	45.2
359	48.3
360	49.6
361	50.9
362	51.7
363	52.8
364	54.1
365	55.5
366	55.7
367	56.2
368	56.0
369	55.5
370	55.8
371	57.1
372	57.9
373	57.9
374	57.9
375	57.9
376	57.9
377	57.9
378	58.1
379	58.6
380	58.7
381	58.6
382	57.9
383	56.5
384	54.9
385	53.9
386	50.5
387	46.7
388	41.4
389	37.0
390	32.7
391	28.2
392	23.3
393	19.3
394	14.0
395	8.7
396	3.4
397	0
398	0
399	0
400	0
401	0
402	0
403	4.2
404	9.5
405	14.8
406	20.1
407	25.4
408	30.7
409	36.0
410	40.2
411	41.2
412	44.3
413	46.7
414	48.3
415	48.4
416	48.3
417	47.8
418	47.2
419	46.3
420	45.1
421	40.2
422	34.9
423	29.6
424	24.3
425	19.0
426	13.7
427	8.4
428	3.1
429	0
430	0
431	0
432	0
433	0
434	0
435	0
436	0
437	0
438	0
439	0
440	0
441	0
442	0
443	0
444	0
445	0
446	0
447	0
448	5.3
449	10.6
450	15.9
451	21.2
452	26.6
453	31.9
454	37.2
455	42.5
456	44.7
457	46.8
458	50.7
459	53.1
460	54.1
461	56.0
462	56.5
463	57.3
464	58.1
465	57.9
466	58.1
467	58.3
468	57.9
469	57.5
470	57.9
471	57.9
472	57.3
473	57.1
474	57.0
475	56.8
476	56.6
477	56.6
478	56.6
479	56.6
480	56.6
481	56.3
482	56.5
483	56.6
484	57.1
485	56.6
486	56.3
487	56.3
488	56.3
489	56.0
490	55.7
491	55.5
492	53.9
493	51.5
494	48.4
495	45.1
496	41.0
497	36.2
498	31.9
499	26.6
500	21.2
501	16.6
502	11.6
503	6.4
504	1.6
505	0
506	0
507	0
508	0
509	0
510	0
511	1.9
512	5.6
513	8.9
514	10.5
515	13.7
516	15.4
517	16.9
518	19.2
519	22.5
520	25.7
521	28.5
522	30.6
523	32.3
524	33.8
525	35.4
526	37.0
527	38.3
528	39.4
529	40.1
530	40.2
531	40.2
532	40.2
533	40.2
534	40.2
535	40.2
536	41.2
537	41.5
538	41.8
539	41.2
540	40.6
541	40.2
542	40.2
543	40.2
544	39.3
545	37.2
546	31.9
547	26.6
548	21.2
549	15.9
550	10.6
551	5.3
552	0
553	0
554	0
555	0
556	0

Time (seconds):	Speed (kilometers per hour)
557	0
558	0
559	0
560	0
561	0
562	0
563	0
564	0
565	0
566	0
567	0
568	0
569	5.3
570	10.6
571	15.9
572	20.9
573	23.5
574	25.7
575	27.4
576	27.4
577	27.4
578	28.2
579	28.5
580	28.5
581	28.2
582	27.4
583	27.2
584	26.7
585	27.4
586	27.5
587	27.4
588	26.7
589	26.6
590	26.6
591	26.7
592	27.4
593	28.3
594	29.8
595	30.9
596	32.5
597	33.8
598	34.0
599	34.1
600	34.8
601	35.4
602	36.0
603	36.2
604	36.2
605	36.2
606	36.5
607	38.1
608	40.4
609	41.8
610	42.6
611	43.5
612	42.0
613	36.7
614	31.4
615	26.1
616	20.8
617	15.4
618	10.1
619	4.8
620	0
621	0
622	0
623	0
624	0
625	0
626	0
627	0
628	0
629	0
630	0
631	0
632	0
633	0
634	0
635	0
636	0
637	0
638	0
639	0
640	0
641	0
642	0
643	0
644	0
645	0
646	3.2
647	7.2
648	12.6
649	16.4
650	20.1
651	22.5
652	24.6
653	28.2
654	31.5
655	33.8
656	35.7
657	37.5
658	39.4
659	40.7
660	41.2
661	41.8
662	42.0
663	42.2
664	42.2
665	42.5
666	42.6
667	42.6
668	41.8
669	41.0
670	38.0
671	34.4
672	29.8
673	26.4
674	23.3
675	18.7
676	14.0
677	9.3
678	5.6
679	3.2
680	0
681	0
682	0
683	0
684	0
685	0
686	0
687	0
688	0
689	0
690	0
691	0
692	0
693	0
694	2.3
695	5.3
696	7.1
697	10.5
698	14.8
699	18.2
700	21.7
701	23.5
702	26.4
703	26.9
704	26.6
705	26.6
706	29.3
707	30.9
708	32.3
709	34.6
710	36.2
711	36.2
712	35.6
713	36.5
714	37.5
715	37.8
716	36.2
717	34.8
718	33.0
719	29.0
720	24.1
721	19.3
722	14.5
723	10.0
724	7.2
725	4.8
726	3.4
727	0.8
728	0.8
729	5.1
730	10.5
731	15.4
732	20.1
733	22.5
734	25.7
735	29.0
736	31.5
737	34.6
738	37.2
739	39.4
740	41.0
741	42.6
742	43.6
743	44.4
744	44.9
745	45.5
746	46.0
747	46.0
748	45.5
749	45.4
750	45.1
751	44.3
752	43.1
753	41.0
754	37.8
755	34.6
756	30.6
757	26.6
758	24.0
759	20.1
760	15.1
761	10.0
762	4.8
763	2.4
764	2.4
765	0.8
766	0
767	4.8
768	10.1
769	15.4
770	20.8
771	25.4
772	28.2
773	29.6
774	31.4
775	33.3
776	35.4
777	37.3
778	40.2
779	42.6
780	44.3
781	45.1
782	45.5
783	46.5
784	46.5
785	46.5
786	46.3
787	45.9
788	45.5
789	45.5
790	45.5
791	45.4
792	44.4
793	44.3
794	44.3
795	44.3
796	44.3
797	44.3
798	44.3
799	44.4
800	45.1
801	45.9
802	48.3
803	49.9
804	51.5
805	53.1
806	53.1
807	54.1
808	54.7
809	55.2
810	55.0
811	54.7
812	54.7
813	54.6
814	54.1
815	53.3
816	53.1
817	52.3
818	51.5
819	51.3
820	50.9
821	50.7
822	49.2
823	48.3
824	48.1
825	48.1
826	48.1
827	48.1
828	47.6
829	47.5
830	47.5
831	47.2
832	46.5
833	45.4
834	44.6
835	43.5
836	41.0
837	38.1
838	35.4
839	33.0
840	30.9
841	30.9
842	32.3
843	33.6
844	34.4
845	35.4
846	36.4
847	37.3
848	38.6
849	40.2
850	41.8
851	42.8
852	42.8
853	43.1
854	43.5
855	43.8
856	44.7
857	45.2
858	46.3
859	46.5
860	46.7
861	46.8
862	46.7
863	45.2
864	44.3
865	43.5
866	41.5
867	40.2
868	39.4
869	39.9
870	40.4
871	41.0
872	41.4
873	42.2
874	43.3
875	44.3
876	44.7
877	45.7
878	46.7
879	47.0
880	46.8
881	46.7
882	46.5
883	45.9
884	45.2
885	45.1
886	45.1
887	44.4
888	43.8
889	42.8
890	43.5
891	44.3
892	44.7
893	45.1
894	44.7
895	45.1
896	45.1
897	45.1
898	44.6
899	44.1
900	43.3
901	42.8
902	42.6
903	42.6
904	42.6
905	42.3
906	42.2
907	42.2
908	41.7
909	41.2
910	41.2
911	41.7
912	41.5
913	41.0
914	39.6
915	37.8
916	35.7
917	34.8
918	34.8
919	34.9
920	36.4
921	37.7
922	38.6
923	38.9
924	39.3
925	40.1
926	40.4
927	40.6
928	40.7
929	41.0
930	40.6
931	40.2
932	40.2
933	40.2
934	39.8
935	39.4
936	39.1
937	39.1
938	39.4
939	40.2
940	40.2
941	39.6
942	39.6
943	38.8
944	39.4
945	40.4
946	41.2
947	40.4
948	38.6
949	35.4
950	32.3
951	27.2
952	21.9
953	16.6
954	11.3
955	6.0
956	0.6
957	0
958	0
959	0
960	3.2
961	8.5
962	13.8
963	19.2
964	24.5
965	28.2
966	29.9
967	32.2
968	34.0
969	35.4
970	37.0
971	39.4
972	42.3
973	44.3
974	45.2
975	45.7
976	45.9
977	45.9
978	45.9
979	44.6
980	44.3
981	43.8
982	43.1
983	42.6
984	41.8
985	41.4
986	40.6
987	38.6
988	35.4
989	34.6
990	34.6
991	35.1
992	36.2
993	37.0
994	36.7
995	36.7
996	37.0
997	36.5
998	36.5
999	36.5
1,000	37.8
1,001	38.6
1,002	39.6
1,003	39.9
1,004	40.4
1,005	41.0
1,006	41.2
1,007	41.0
1,008	40.2
1,009	38.8
1,010	38.1
1,011	37.3
1,012	36.9
1,013	36.2
1,014	35.4
1,015	34.8
1,016	33.0
1,017	28.2
1,018	22.9
1,019	17.5
1,020	12.2
1,021	6.9
1,022	1.6
1,023	0
1,024	0
1,025	0
1,026	0
1,027	0
1,028	0
1,029	0
1,030	0
1,031	0
1,032	0
1,033	0
1,034	0
1,035	0
1,036	0
1,037	0
1,038	0
1,039	0
1,040	0
1,041	0
1,042	0
1,043	0
1,044	0
1,045	0
1,046	0
1,047	0
1,048	0
1,049	0
1,050	0
1,051	0
1,052	0
1,053	1.9
1,054	6.4
1,055	11.7
1,056	17.1
1,057	22.4
1,058	27.4

Time (seconds):	Speed (kilometers per hour)
1,059	29.8
1,060	32.2
1,061	35.1
1,062	37.0
1,063	38.6
1,064	39.9
1,065	41.2
1,066	42.6
1,067	43.1
1,068	44.1
1,069	44.9
1,070	45.5
1,071	45.1
1,072	44.3
1,073	43.5
1,074	43.5
1,075	42.3
1,076	39.4
1,077	36.2
1,078	34.6
1,079	33.2
1,080	29.0
1,081	24.1
1,082	19.8
1,083	17.9
1,084	17.1
1,085	16.1
1,086	15.3
1,087	14.6
1,088	14.0
1,089	13.8
1,090	14.2
1,091	14.5
1,092	14.0
1,093	13.8
1,094	12.9
1,095	11.3
1,096	8.0
1,097	6.8
1,098	4.2
1,099	1.6
1,100	0.9
1,101	0.2
1,102	1.0
1,103	2.6
1,104	5.8
1,105	11.1
1,106	16.1
1,107	20.6
1,108	22.5
1,109	23.3
1,110	25.7
1,111	29.1
1,112	32.2
1,113	33.8
1,114	34.1
1,115	34.3
1,116	34.4
1,117	34.9
1,118	36.2
1,119	37.0
1,120	38.3
1,121	39.4
1,122	40.2
1,123	40.1
1,124	39.9
1,125	40.2
1,126	40.9
1,127	41.5
1,128	41.8
1,129	42.5
1,130	42.8
1,131	43.3
1,132	43.5
1,133	43.5
1,134	43.5
1,135	43.3
1,136	43.1
1,137	43.1
1,138	42.6
1,139	42.5
1,140	41.8
1,141	41.0
1,142	39.6
1,143	37.8
1,144	34.6
1,145	32.2
1,146	28.2
1,147	25.7
1,148	22.5
1,149	17.2
1,150	11.9
1,151	6.6
1,152	1.3
1,153	0
1,154	0
1,155	0
1,156	0
1,157	0
1,158	0
1,159	0
1,160	0
1,161	0
1,162	0
1,163	0
1,164	0
1,165	0
1,166	0
1,167	0
1,168	0
1,169	3.4
1,170	8.7
1,171	14.0
1,172	19.3
1,173	24.6
1,174	29.9
1,175	34.0
1,176	37.0
1,177	37.8
1,178	37.0
1,179	36.2
1,180	32.2
1,181	26.9
1,182	21.6
1,183	16.3
1,184	10.9
1,185	5.6
1,186	0.3
1,187	0
1,188	0
1,189	0
1,190	0
1,911	0
1,192	0
1,193	0.0
1,194	0.0
1,195	0.0
1,196	0.0
1,197	0.3
1,198	2.4
1,199	5.6
1,200	10.5
1,201	15.8
1,202	19.3
1,203	20.8
1,204	20.9
1,205	20.3
1,206	20.6
1,207	21.1
1,208	21.1
1,209	22.5
1,210	24.9
1,211	27.4
1,212	29.9
1,213	31.7
1,214	33.8
1,215	34.6
1,216	35.1
1,217	35.1
1,218	34.6
1,219	34.1
1,220	34.6
1,221	35.1
1,222	35.4
1,223	35.2
1,224	34.9
1,225	34.6
1,226	34.6
1,227	34.4
1,228	32.3
1,229	31.4
1,230	30.9
1,231	31.5
1,232	31.9
1,233	32.2
1,234	31.4
1,235	28.2
1,236	24.9
1,237	20.9
1,238	16.1
1,239	12.9
1,240	9.7
1,241	6.4
1,242	4.0
1,243	1.1
1,244	0
1,245	0
1,246	0
1,247	0
1,248	0
1,249	0
1,250	0
1,251	0
1,252	1.6
1,253	1.6
1,254	1.6
1,255	1.6
1,256	1.6
1,257	2.6
1,258	4.8
1,259	6.4
1,260	8.0
1,261	10.1
1,262	12.9
1,263	16.1
1,264	16.9
1,265	15.3
1,266	13.7
1,267	12.2
1,268	14.2
1,269	17.7
1,270	22.5
1,271	27.4
1,272	31.4
1,273	33.8
1,274	35.1
1,275	35.7
1,276	37.0
1,277	38.0
1,278	38.8
1,279	39.4
1,280	39.4
1,281	38.6
1,282	37.8
1,283	37.8
1,284	37.8
1,285	37.8
1,286	37.8
1,287	37.8
1,288	38.6
1,289	38.8
1,290	39.4
1,291	39.8
1,292	40.2
1,293	40.9
1,294	41.2
1,295	41.4
1,296	41.8
1,297	42.2
1,298	43.5
1,299	44.7
1,300	45.5
1,301	46.7
1,302	46.8
1,303	46.7
1,304	45.1
1,305	39.8
1,306	34.4
1,307	29.1
1,308	23.8
1,309	18.5
1,310	13.2
1,311	7.9
1,312	2.6
1,313	0
1,314	0
1,315	0
1,316	0
1,317	0
1,318	0
1,319	0
1,320	0
1,321	0
1,322	0
1,323	0
1,324	0
1,325	0
1,326	0
1,327	0
1,328	0
1,329	0
1,330	0
1,331	0
1,332	0
1,330	0
1,334	0
1,335	0
1,336	0
1,337	0
1,338	2.4
1,339	7.7
1,340	13.0
1,341	18.3
1,342	21.2
1,343	24.3
1,344	27.0
1,345	29.5
1,346	31.4
1,347	32.7
1,348	34.3
1,349	35.2
1,350	35.6
1,351	36.0
1,352	35.4
1,353	34.8
1,354	34.0
1,355	33.0
1,356	32.0
1,357	31.5
1,358	29.8
1,359	28.2
1,360	26.6
1,361	24.9
1,362	22.5
1,363	17.7
1,364	12.9
1,365	8.4
1,366	4.0
1,367	0
1,368	0
1,369	0
1,370	0
1,371	0

The diagrams below show the range of acceptable speed tolerances for typical points. The first curve is typical of portions of the speed curve which are increasing or decreasing throughout the two second time interval. The second curve is typical of portions of the speed curve which include a maximum or minimum value.



APPENDIX II

PROCEDURES FOR DYNAMOMETER ROAD POWER CALIBRATION

(a) Dynamometer Road Power Calibration for Light Duty Vehicles, Diesel Light Duty Vehicles, Light Duty Trucks, and Diesel Light Duty Trucks.

This appendix describes the method for determining the road power absorbed by a chassis dynamometer. The measured absorbed road power includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer power absorption unit and by dynamometer friction. This method neglects the variations in roll bearing friction due to the drive axle mass of the vehicle. The difference in coast down time of the free (rear) roll relative to the drive (front) roll may be neglected in the case of dynamometers with paired rolls.

These procedures shall be followed:

1. Devise a method to determine the speed of the drive roll if not already measured. A fifth wheel, revolution pickup, or other suitable means may be used.

2. Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

3. Engage the inertial flywheel or another inertial simulation system for the most common vehicle mass category for which the dynamometer is used.

4. Drive the dynamometer up to 80.5 k.p.h. (50.0 m.p.h.).

5. Record indicated road power.

6. Drive the dynamometer up to 96.6 k.p.h. (60.0 m.p.h.).

7. Disengage the device used to drive the dynamometer.

8. Record the time for the dynamometer drive roll to coast down from 88.5 k.p.h. (55.0 m.p.h.) to 72.4 k.p.h. (45.0 m.p.h.).

9. Adjust the power absorption unit to a different level.

10. Repeat steps 4 to 9 above sufficient times to cover the range of road power used.

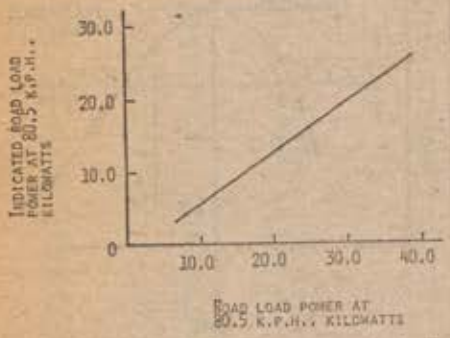
11. Calculate absorbed road power from:

$$Pd = \frac{1}{2} M1(V1^2 - V2^2)/t = 99.88\ M1/t$$

where:

Pd=Power in watts.
M1=Equivalent inertia in kg.
V1=Initial velocity in m/s (88.5 k.p.h.= 24.58 m/s).
V2=Final velocity in m/s (72.4 k.p.h.= 20.11 m/s).
t=Elapsed time for rolls to coast from 88.5 k.p.h .to 72.4 k.p.h.

12. Plot indicated road load power at 80.5 k.p.h. (50.0 m.p.h.) versus road load power at 80.5 k.p.h. (50.0 m.p.h.).



13. The road load power reported in #85.0XX-15, 85.1XX-13, 85.2XX-15, or 85.3XX-13 is obtained by entering the plot at the indicated road load power determined in #85.0XX-15(e)(2)(ii), 85.1XX-13(e)(2)(ii), 85.02XX-15(e)(2)(ii), or 85.3XX-13(e)(2)(ii).[1]

14. Once the road load power at 80.5 k.p.h. (50.0 m.p.h.) is known for a vehicle, it may be tested on other dynamometers using a similar calibration.

(b) Dynamometer Road Power Calibration for Motorcycles.

This appendix describes the method for determining the road power absorbed by a chassis dynamometer. The measured absorbed road power includes the dynamometer friction as well as the power absorbed by the power absorption unit. The dynamometer is driven above the test speed range. The device used to drive the dynamometer is then disengaged from the dynamometer and the roll(s) is allowed to coast down. The kinetic energy of the system is dissipated by the dynamometer power absorption unit and by dynamometer friction. This method neglects the variations in roll bearing friction due to the drive axle mass of the vehicle. The difference in coast down time of the free (rear) roll relative to the drive (front) roll may be neglected in the case of dynamometers with paired rolls.

These procedures shall be followed:

1. Devise a method to determine the speed of the drive roll if not already measured. A fifth wheel, revolution pickup, or other suitable means may be used.

2. Place a vehicle on the dynamometer or devise another method of driving the dynamometer.

3. Engage the inertial flywheel or another inertial simulation system for the most common vehicle mass category for which the dynamometer is used.

4. Drive the dynamometer up to 65 k.p.h. (40.4 m.p.h.).

5. Record indicated road power.

6. Drive the dynamometer up to 75 k.p.h. (46.6 m.p.h.).

7. Disengage the device used to drive the dynamometer.

8. Record the time for the dynamometer drive roll to coast down from 70 k.p.h. (43.5 m.p.h.) to 60 k.p.h. (37.3 m.p.h.).

9. Adjust the power absorption unit to a different level.

10. Repeat steps 4 to 9 above sufficient times to cover the range of road power used.

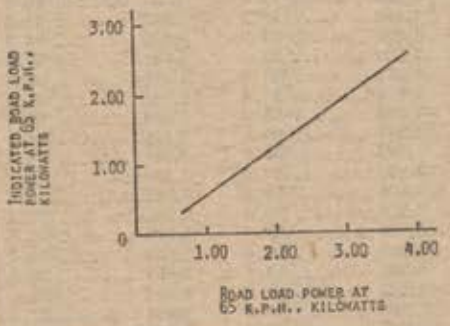
11. Calculate absorbed road power from:

$$Pd = 1/2\ M1(V1^2 - V2^2)/t = 50.01\ M1/t$$

where:

Pd=Power in watts.
M1=Equivalent inertia in kg.
V1=Initial velocity in m/s (70 k.p.k.= 19.44 m/s).
V2=Final velocity in m/s (60 k.p.k.=16.67 m/s).
t=Elapsed time for rolls to coast from 70 k.p.h. to 60 k.p.h.

12. Plot indicated road power at 65 k.p.h. (40.4 m.p.h.) versus road load power at 65 k.p.h. (40.4 m.p.h.).



13. The road load power reported in # 85.4XX-15 is obtained by entering the plot at the indicated road load power determined in # 85.4XX-15(e)(2)(ii).

14. Once the road load power at 65 k.p.h. (40.4 m.p.h.) is known for a vehicle, it may be tested on other dynamometers using a similar calibration.

APPENDIX III

CONSTANT VOLUME SAMPLER FLOW CALIBRATION

The following calibration procedure outlines the equipment, the test setup configuration, and the various parameters which must be measured to establish the flow rate of the constant volume sampler pump. All the parameters related to the pump are simultaneously measured with the parameter related to a flowmeter which is connected in series with the pump. The calculated flow rate (m^3/rev (ft^3/rev) at pump inlet absolute pressure and temperature) can then be plotted versus a correlation function which is the value of a specific combination of pump parameters. The linear equation which relates the pump flow and the correlation function is then determined. In the event that a CVS has a multiple speed drive, a calibration for each range should be performed.

This calibration procedure is based on the measurement of the absolute values of the pump and flowmeter parameters that relate the flow rate at each point. Three conditions must be maintained to assure the accuracy and integrity of the calibration curve. First, the pump pressures should be measured at taps on the pump rather than at the external piping on the pump inlet and outlet. Pressure taps that are mounted at the top and bottom center of the pump drive headplate are exposed to the actual pump cavity pressures, and therefore reflect the absolute pressure differentials. Secondly, temperature stability must be maintained during the calibration. The laminar flowmeter is sensitive to inlet temperature oscillations which cause the data points to be scattered. Gradual changes (±1 °C (±1.8°F)) in temperature are acceptable as long as they occur over a period of several minutes. Finally, all connections between the flowmeter and the CVS pump must be absolutely void of any leakage.

During a CVS emissions test the measurement of these same pump parameters enables the user to calculate the flow rate from the calibration equation.

After the calibration curve has been obtained, a verification test of the entire system can be performed by injecting a known mass of gas into the system and comparing the mass indicated by the system to the true mass injected. An indicated error does not necessarily mean that the calibration is wrong, since other factors can influence the accuracy of the system.

Equipment: The following list of equipment will be needed to perform this calibration procedure. Figure 1 illustrates a typical equipment arrangement used for calibration. All of the equipment involved should conform to the range and accuracy as specified in Figure 1.

Equipment List: 1. LFE-Laminar Flowmeter.

2. Micromanometer.

3. Thermometer.

4. Timer.

5. U-Tube Manometers.

6. Temperature Indicator with type J Thermocouples.

7. A variable flow restrictor with appropriate piping to connect the CVS pump and LFE.

After the system has been connected as shown in Figure 1, set the variable restrictor in the wide open position and run the CVS pump for twenty minutes. Record the calibration data.

[1] Normally, the two characters after the period and subpart number are the last two digits of the model year or year of production to which the regulations apply. Since the Appendices to Part 85 apply to all model years and years of production, the characters XX have been substituted for these last two digits.

Calibration data measurements

Parameter	Symbol	Units	Tolerance
Barometric pressure (corrected)	Pb	kPa (in Hg)	±0.03 kPa (±0.0089 in Hg).
Ambient temperature	Ta	°C (°F)	±0.3° C (±0.54° F).
Air temperature into LFE	ETI	°C (°F)	±0.06° C (±0.108° F).
Pressure depression upstream of LFE	EPI	kPa (in H20)	±0.025 kPa (±0.10 in H2O).
Pressure drop across the LFE matrix	EDP	kPa (in H2O)	±0.01 kPa (±0.004 in H2O).
Air temperature at CVS pump inlet	PTI	°C (°F)	±0.3 C (±0.54° F).
Pressure depression at CVS pump inlet	PPI	kPa (in fluid)	±0.02 kPa (±0.046 in fluid).
Specific gravity of manometer fluid (1.75 oil)	Sp. Gr.		
Pressure head at CVS pump outlet	PPO	kPa (in fluid)	±0.02 kPa (±0.046 in fluid).
Air temperature at CVS pump outlet (optional)	PTO	°C (°F)	±0.3° C (±0.54 ° F).
Pump revolutions during test period	N	Revs.	None.
Elapsed time for test period	t	Seconds	±0.05 s.

NOTE.—The fluid level in the manometer tube should stabilize before the reading is made, and the elapsed time for revolution counting should be greater than 120 s.

Reset the restrictor valve to a more restricted condition in an increment of pump inlet depression (about 1 kPa (4 in. H2O)) that will yield a minimum of six data points for the total calibration.

Allow the system to stabilize for 3 minutes and repeat the data acquisition.

Data Analysis: The data recorded during the calibration are to be used in the following calculations.

1. The air flow rate at each test point is calculated in standard cubic meters per minute (Qs) from the flowmeter data using the manufacturer's prescribed method.

2. The air flow rate is then converted to pump flow, Vo, in cubic meters per revolution at absolute pump inlet temperature and pressure.

$$Vo = (Qs/n)\,(Tp/294)\,(101.3/Pp)$$

where:

Qs = Meter air flow rate in standard cubic meters per minute (flowmeter standard conditions are 20° C (68° F), 100 kPa (29.53 in. Hg)).

n = Pump speed in revolutions per minute.

Pp = Absolute pump inlet pressure in kPa (in. Hg).

Pp = Pb − PPI.

Tp = PTI + 273.

3. The correlation function at each test point is then calculated from the calibration data, as follows:

$$Xo = (1/n)\,\sqrt{|(Pe - Pp)/Pe|}$$

where:

Pe − Pp = Pressure differential from pump inlet to pump outlet in kPa (in. Hg).

Pe = Absolute pump outlet pressure in kPa (in. Hg).

Pe = Pb + PPO.

See # 85.0XX–26, 85.1XX–23, 85.2XX–26, 85.3XX–23, or 85.4XX–26 for other definitions.

4. A linear least squares fit is performed to generate the calibration equations which have the forms

$$Vo = Do - M(Xo)$$
$$n = A - B(Pe - Pp)$$

Do, M, A, and B are the slope-intercept constants describing the lines.

A CVS system that has multiple speeds should be calibrated on each speed used. The calibration curves generated for the ranges will be approximately parallel and the intercept values, Do, will increase as the pump flow range decreases.

If the calibration has been performed carefully, the calculated Vo values from the equation will be within ±0.50% of the measured value of Vo. Values of M will vary from one pump to another, but values of Do for pumps of the same make, model, and range should agree within ±3% of each other. Particulate influx from use will cause the pump slip to decrease as reflected by lower values for M. Calibrations should be performed at 0, 50, 100, 200, 400, etc. hours of pump operation to assure the stability of the pump slip rate. Analysis of mass injection data will also reflect pump slip stability.

CVS System Verification: The following technique can be used to verify that the CVS and analytical instruments can accurately measure a mass of gas that has been injected into the system.

1. Obtain a small cylinder that has been charged with pure propane or carbon monoxide gas (caution-carbon monoxide is poisonous!). Critical flow orifice devices can also be used for constant flow metering.

2. Determine a reference cylinder mass to the nearest 0.01 gram.

3. Operate the CVS in the normal manner and release a quantity of pure propane or carbon monoxide into the system during the sampling period.

4. The calculations of # 85.0XX–26, 85.1XX–23, 85.2XX–26, 85.3XX–23, or 85.XX–26 are performed in the normal way except, in the case of propane, the density of propane (0.6030 kg/m³/carbon atom (17.08 g/ft³/carbon atom)) is used in place of the density of exhaust hydrocarbons. In the case of carbon monoxide, the density of 1.149 kg/m³ (32.54 g/ft³) is used.

5. The gravimetric mass is subtracted from the CVS measured mass and then divided by the gravimetric mass to determine the percent accuracy of the system.

6. The cause for any discrepancy greater than ±2% should be found and corrected. The following-list of parametric errors may assist the operator in locating the cause of large errors.

Positive Error (Indication is higher than true value):

1. Calculated Vo is greater than actual Vo.

a. Original calibration in error.

2. Pump inlet temperature recorder is reading low. A 3.33°C (6°F) discrepancy will give a 1% error.

3. Pump inlet pressure indicator is reading high. A 0.87 kPa (3.5 in. H20) high reading will give 1% error.

4. Background concentration reading is too low. Check analyzer zero. Check leakage at floor inlet.

5. Analyzer is reading high. Check span.

6. Barometer reading is in error (too high). Barometric pressure reading should be gravity and temperature corrected.

7. Revolution counter is reading high. (Check pump speed and counters.)

8. Mixture is stratified causing the sample to be higher than the average concentration in the mixture.

9. Injected gas is contaminated.

Negative Error (Indication is lower than true value):

1. Calculated Vo is less than actual Vo.

a. Original calibration in error.

b. Pump clearances decreased due to influx of some surface adherent material. Recalibration may be needed.

2. Pump inlet temperature recorder is reading high.

3. Pump inlet pressure indicator is reading low.

4. Background concentration reading is too high.

5. Analyzer is reading low.

6. Barometer reading is in error (too low).

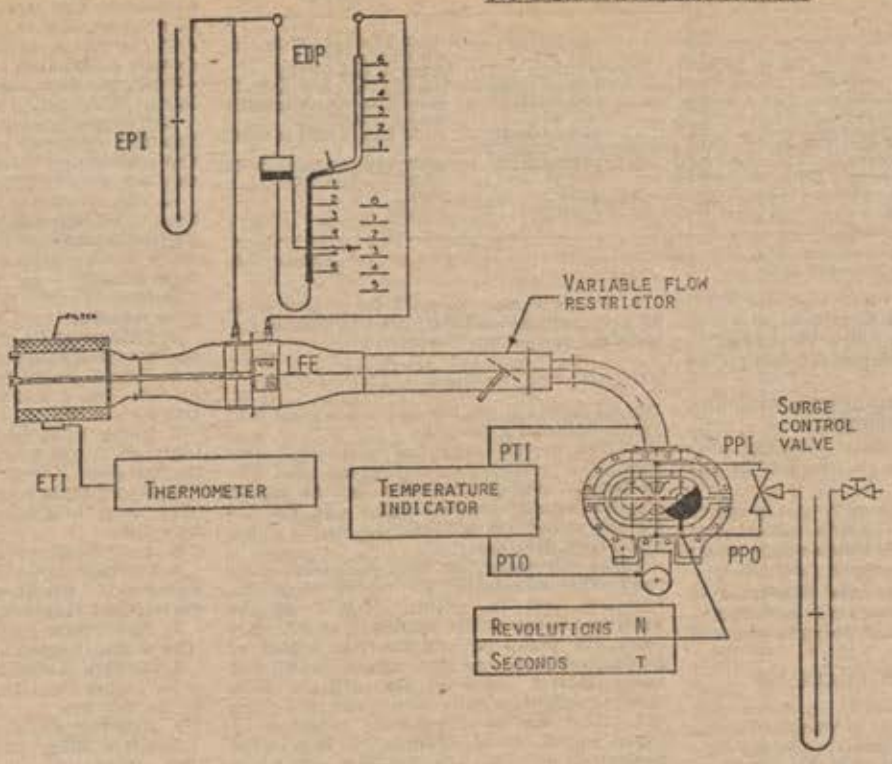
7. Revolution counter is reading low.

8. There is a leak into the sampling system. Pressure check the lines and fittings on the intake side of sample transfer pumps on both the CVS and analyzer console.

9. Injected gas is contaminated.

FIGURE 1

CVS CALIBRATION CONFIGURATION



Unit	Range	Accuracy
LFE:		
ETI	0-40° C (32-103.4° F)	±0.06° C (±0.108° F).
EPI	0-2.5 kPa (0-10.0 in H2O)	±25 Pa (±0.10 in H2O).
EDP	0-2.5 kPa (0-10.0 in H2O)	±1 Pa (±0.004 in H2O).
Pumps:		
PTI	0-120° C (32-247.4° F)	±0.3° C (±0.54° F).
PPI	0-16 kPa (0-36.7 in fluid)	±20 Pa (±0.046 in fluid).
PPO	0-16 kPa (0-36.7 in fluid)	±20 Pa (±0.046 in fluid).
PTO	0-120° C (32-247.4° F)	±0.3° C (±0.54° F).
N	0-100,000	±0.
t	0-10,000 s.	±0.05 s.

NOTE.—Fluid used in 16 kPa (36.7 in. fluid) manometer should extend range to at least 0-15 kPa (0-60.2 in H2O). Separate manometers for PPI and PPO may be used during calibration.

APPENDIX IV

DURABILITY DRIVING SCHEDULES

(a) Durability Driving Schedule for Light Duty Vehicles, Diesel Light Duty Vehicles, Light Duty Trucks, and Diesel Light Duty Trucks.

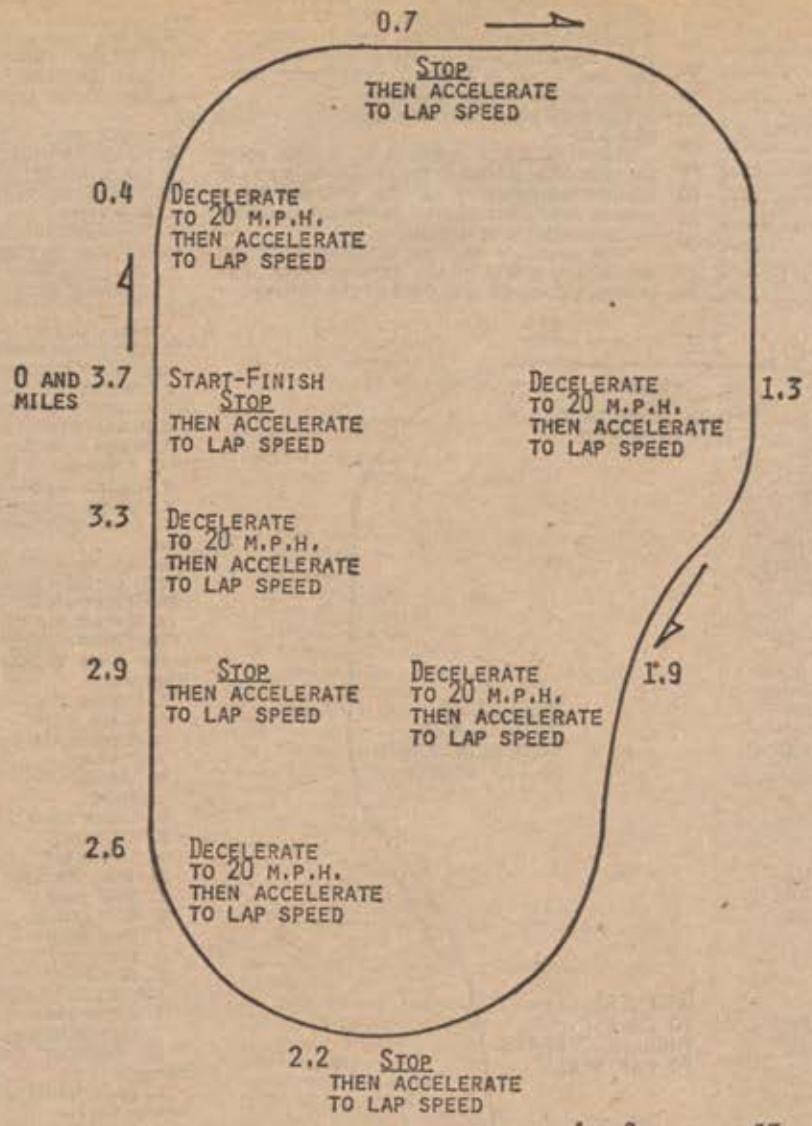
The schedule consists basically of 11 laps of a 3.7 mile course. The basic vehicle speed for each lap is listed below:

Lap	*Speed (m.p.h.)*
1	40
2	30
3	40
4	40
5	35
6	30
7	35
8	45
9	35
10	55
11	70

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 20 m.p.h. followed by light accelerations to the base speed.

The 10th lap is run at a constant speed of 55 m.p.h.

The 11th lap is begun with a wide open throttle acceleration from stop to 70 m.p.h. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the midpoint of the lap.



(b) **Durability Driving Schedule for Motorcycles with engine displacements equal to or greater than 170 cc (10.4 cu. in.).** This Durability Driving Schedule may also be used for Light Duty Vehicles, Diesel Light Duty Vehicles, Light Duty Trucks, and Diesel Light Duty Trucks.

The schedule consists basically of 11 laps of a 6.0 km (3.7 mi) course. The basic vehicle speed for each lap is listed below:

Lap	Speed (k.p.h.)
1	70
2	50
3	70
4	70
5	60
6	50
7	60
8	80
9	60
10	90
11	110

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 30 k.p.h. followed by light accelerations to the base speed.

The 10th lap is run at a constant speed of 90 k.p.h.

The 11th lap is begun with a wide open throttle acceleration from stop to 110 k.p.h. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the midpoint of the lap.

This schedule may be modified with the advance approval of the Administrator if it results in unsafe operation of the vehicle.

(c) **Durability Driving Schedule for Motorcycles with engine displacements less than 170 cc (10.4 cu. in.).**

The schedule consists basically of 11 laps of a 6.0 km (3.7 mi) course. The basic vehicle speed for each lap is listed below:

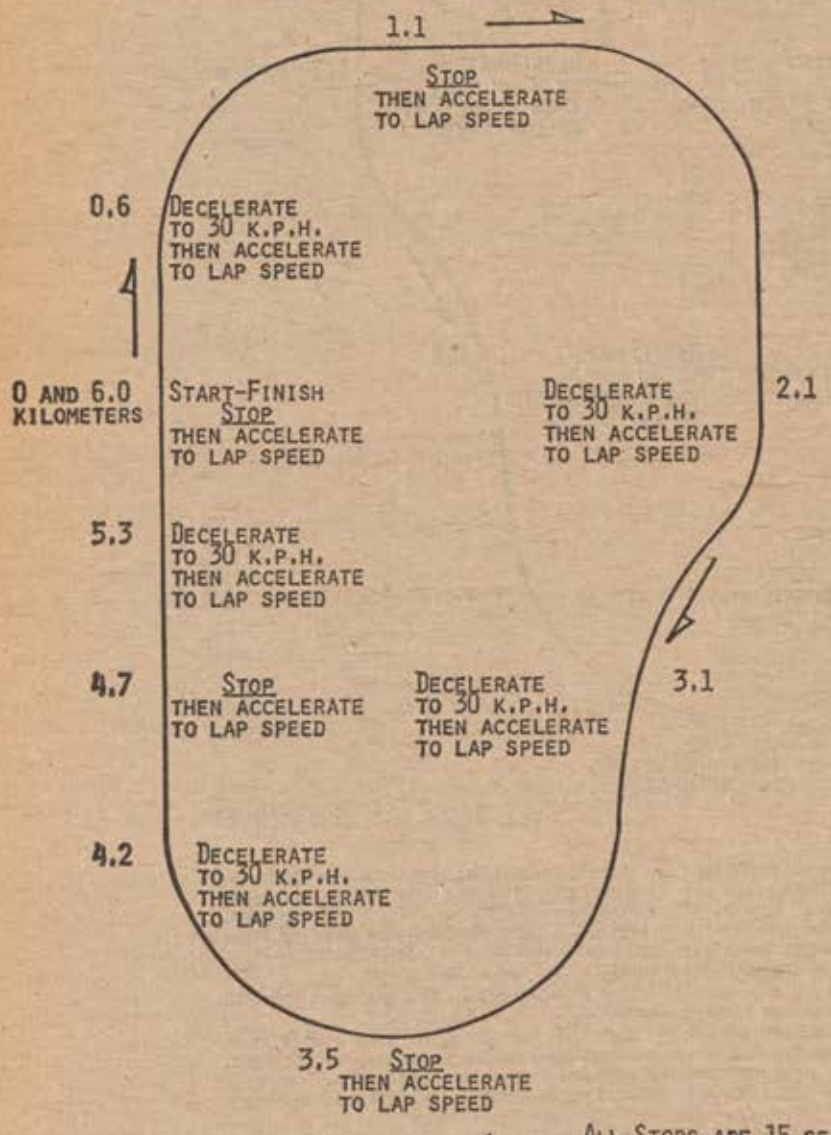
Lap:	Speed (k.p.h.)
1	70
2	50
3	70
4	70
5	60
6	50
7	60
8	80
9	60
10	90
11	90

During each of the first nine laps there are 4 stops with 15 second idle. Normal accelerations and decelerations are used. In addition, there are 5 light decelerations each lap from the base speed to 30 k.p.h. followed by light accelerations to the base speed.

The 10th lap is run at a constant speed of 90 k.p.h.

The 11th lap is begun with a wide open throttle acceleration from stop to 90 k.p.h. A normal deceleration to idle followed by a second wide open throttle acceleration occurs at the midpoint of the lap.

This schedule may be modified with the advance approval of the Administrator if it results in unsafe operation of the vehicle.



c. ALL STOPS ARE 15 SECONDS

APPENDIX V

(Reserved)

APPENDIX VI

VEHICLE AND ENGINE COMPONENTS

(a) Light Duty Vehicles, Light Duty Trucks, Motorcycles, and Gasoline Fueled Heavy Duty Engines.

I. Basic Mechanical Components-Engine.

1. Intake and exhaust valves.
2. Drive belts.
3. Manifold and cylinder head bolts.
4. Engine oil and filter.
5. Engine coolant.
6. Cooling system hoses and connections.
7. Vacuum fittings, hoses, and connections.
8. Oil injection metering system.

II. Fuel System.

1. Fuel specification-octane rating, lead content.
2. Carburetor-idle RPM, mixture ratio.
3. Choke mechanism.
4. Fuel system filter and fuel system lines and connections.
5. Choke plate and linkage.

III. Ignition Components.

1. Ignition timing and advance systems.
2. Distributor breaker points and condenser.
3. Spark plugs.
4. Ignition wiring.
5. Operating parts of distributor.

IV. Crankcase Ventilation System.

1. PCV valve.
2. Ventilation hoses.
3. Oil filler breather cap.
4. Manifold inlet (carburetor spacer, etc.).

V. External Exhaust Emission Control System.

1. Secondary air injection system hoses.
2. Air system manifolds.
3. Control valves and air pump.
4. Manifold reactors.
5. Catalytic converters.
6. Exhaust recirculation.
7. Water injection.

VI. Evaporative Emission Control System.

1. Engine compartment hose connections.
2. Carbon storage media.
3. Fuel tank pressure-relief valve operation.
4. Fuel vapor control valves.

VII. Air Inlet Components.

1. Carburetor air cleaner filter.
2. Hot air control valve.

(b) Diesel Light Duty Vehicles, Diesel Light Duty Trucks, and Diesel Heavy Duty Engines.

I. Engine Mechanical Components.

1. Valve train.
2. Cooling system.
a. Coolant.
b. Thermostat.
c. Filter.
3. Lubrication.
a. Oil filter.
b. Lubricant.

II. Fuel System.

1. Fuel type.
2. Fuel pump.
3. Fuel filters.
4. Injectors.
5. Governor.

III. Air Inlet Components.

1. Air cleaner.
2. Inlet ducting.

IV. External Exhaust Emission Control System.

1. Rack limiting devices (aneroid, throttle delay, etc.).
2. Manifold reactors.
3. Catalytic converters.
4. Exhaust recirculation.
5. Water injection.

APPENDIX VII

(a) Light Duty Vehicle, Diesel Light Duty Vehicle, Light Duty Truck, Diesel Light Duty Truck, and Motorcycle Parameters and Specifications.

I. Basic Engine Parameters—Four-Stroke Cycle Reciprocating Engines.

1. Cylinder bore center-to-center dimension.
2. Centerline of crankshaft to centerline of camshaft dimension.
3. Centerline of crankshaft to the top of the cyclinder block head face dimension.
4. Cylinder block configuration and material (including liners if applicable).
5. Combustion cycle.
6. Method of aspiration.
7. Displacement.
8. Bore and stroke.
9. Number of cylinders.
10. Compression ratio.
11. Surface to volume ratio.
12. Type of cylinder head and material.
13. Combustion chamber configuration.

14. Intake port area and configuration at cylinder head and manifold mating surface.
15. Exhaust port area and configuration at cylinder head and manifold mating surface.
16. Valves.
a. Head diameter.
b. Type and material.
c. Seat angle and preparation.
d. Valve spring material and load.
e. Valve spring retainer and/or rotator configuration.
f. Valve stem seal type and material.
g. Location of valves.
h. Valve activation mechanism.
i. Number of valves per cylinder.
17. Intake manifold configuration and material.
18. Exhaust manifold configuration and material.
19. Piston and piston ring(s) configuration and material.
20. Exhaust system configuration and backpressure.
21. Camshaft timing.
a. Cam profile.
b. Valve overlap.
22. Advertised power at RPM.
23. Advertised torque at RPM.
24. Governor descriptions.
25. Supercharger description.
26. Precombustion chamber configuration and material.
II. Basic Engine Parameters—Two-Stroke Cycle Reciprocating Engines.
1-25. Same as section I.
26. Intake port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
27. Exhaust port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
28. Transfer port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
29. Crankcase volume.
30. Precombustion chamber configuration and material.
III. Basic Engine Parameters—Rotary Engines.
1. Major axis dimension.
2. Minor axis dimension.
3. Eccentricity dimension.
4. Width of rotor housing dimension.
5. Generating radius dimension.
6. Intake port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing and overlap if exposed to combustion chamber.
7. Exhaust port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing and overlap if exposed to combustion chamber.
8. Housing configuration and material.
9. Combustion cycle.
10. Method of aspiration.
11. Number of spark plugs per rotor.
12. Displacement.
13. Rotor and seals.
a. Number of rotors and seals per rotor.
b. Configuration and seal retention.
c. Materials.
14. Compression ratio.
15. Surface to volume ratio.
16. Combustion chamber configuration.
17. Intake manifold configuration and material.
18. Exhaust manifold configuration and material.
19. Advertised power at RPM.
20. Advertised torque at RPM.
21. Exhaust system configuration and backpressure.
22. Governor description.
23. Supercharger description.
24. Precombustion chamber configuration and material.
IV. Air Inlet System.
1. Air cleaner type and configuration.
2. Air inlet temperature control system.
3. Inlet fresh air pick up method.
4. Maximum allowable restriction.
V. Fuel and Oil Systems.
1. Carburetion.
a. Number of carburetors.
b. Type.
c. Number of venturis per carburetor.
d. Venturi diameter.
e. Maximum air flow.
f. Fuel metering system type and calibration.
g. Enrichment system type and calibration.
h. Idle stop mechanism.
i. Starting system (e.g. choke).
j. Altitude compensation type and calibration.
k. Air-fuel flow specification (flow curve).
l. General compensation system type and calibration.
m. Component material.
n. Part number(s).
2. Fuel injection.
a. Control parameters.
b. Basic type (mechanical, electronic, timed, continuous).
c. Point of injection.
d. Maximum air flow.
e. Throttle mechanism type and calibration if applicable.
f. Fuel shutoff system type and calibration.
g. Cold start enrichment system type and calibration.
h. Enrichment system type and calibration
i. Air-fuel flow specification (flow curve).
j. Altitude compensation type and calibration.
k. General compensation systems type and calibration.
l. Injector configuration and material.
m. Operating pressures.
n. Basic injector timing and advance characteristics.
o. Part number(s).
3. General.
a. Fuel pump configuration and specifications.
b. Fuel control mechanisms and vents.
c. Altitude compensation type and calibration.
d. Idle speed specification and setting procedure.
e. Idle mixture specification and setting procedure.
f. Fuel rate at maximum power (Diesel only).
g. Fuel rate at maximum torque (Diesel only).
4. Oil injection metering system.
a. Control parameters.
b. Point of injection.
c. Fuel-oil flow specification.
d. Oil pump configuration and specifications.
e. Part number(s).
VI. Ignition System.
1. General type and description of operation.
2. Basic initial timing.
3. Spark advance specifications.
4. Spark plug.
a. Heat range.
b. Gap.
c. Tip configuration.
5. Ignition wire material.
6. Dwell (if applicable).
7. Starting circuit description.
8. General compensating systems type and calibration.
9. Altitude compensating system.
10. Insulation and heat sink (if applicable) material.
11. Part number(s).
VII. Cooling System.
1. Thermostat calibration.
2. Capacity of coolant.
3. Water pump capacity.
VIII. Engine Accessories.
1. Air conditioning system description and usage.
2. Power steering system description and usage.
3. Power brakes system description and usage.
4. Power take-off component(s) description and usage.
5. Vacuum takeoffs.
IX. Exhaust Emission Control System.
1. System type (air injection, smoke control, EGR, etc.) and method of operation.
2. Component design and materials.
3. Location of component on vehicle.
4. Calibration of components.
5. Part number(s).
X. Evaporative Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components
5. Part number(s).
XI. Crankcase Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XII. Auxiliary Emission Control Devices.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XIII. Emission Control Related Warning Systems.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).
XIV. Driveline Parameters.
1. Torque convertor or clutch configuration and torque transfer performance.
2. Transmission.
a. Automatic gear ratios and shift speeds.
b. Semiautomatic and manual gear ratios.
3. Differential and transfer case.
a. Number of wheels driving vehicle.
b. Axle ratio.
c. Special features that cause any changes to the torque transfer characteristics and quantifications of the additional power requirements (eg. overdrive).
4. Tires.
a. Size.
b. Type.
5. Engine speed to vehicle speed relationship (N/V).
XV. Vehicle Parameters.
1. Model.
2. Inertial mass category.
3. Curb mass average for model.
4. Road load power requirements.
5. Engine location in vehicle.
6. Fuel tank(s) configuration and material.
7. Fuel line(s) and hose size (including restrictors) and routing.

(b) Gasoline Fueled and Diesel Heavy Duty Engine Parameters and Specifications.

I. Basic Engine Parameters—Four-Stroke Cycle Reciprocating Engines.

1. Cylinder bore center-to-center dimension.

2. Centerline of crankshaft to centerline of camshaft dimension.

3. Centerline of crankshaft to the top of the cylinder block head face dimension.
4. Cylinder block configuration and material (including liners if applicable).
5. Combustion cycle.
6. Method of aspiration.
7. Displacement.
8. Bore and stroke.
9. Number of cylinders.
10. Compression ratio.
11. Surface to volume ratio.
12. Type of cylinder head and material.
13. Combustion chamber configuration.
14. Intake port area and configuration at cylinder head and manifold mating surface.
15. Exhaust port area and configuration at cylinder head and manifold mating surface.
16. Valves.
a. Head diameter.
b. Type and material.
c. Seat angle and preparation.
d. Valve spring material and load.
e. Valve spring retainer and/or rotator configuration.
f. Valve stem seal type and material.
g. Location of valves.
h. Valve activation mechanism.
i. Number of valves per cylinder.
17. Intake manifold configuration and material.
18. Exhaust manifold configuration and material.
19. Piston and piston ring(s) configuration and material.
20. Exhaust system configuration and backpressure.
21. Camshaft timing.
a. Cam profile.
b. Valve overlap.
22. Advertised power at RPM.
23. Advertised torque at RPM.
24. Governor descriptions.
25. Supercharger description.
26. Precombustion chamber configuration and material.

II. Basic Engine Parameters—Two-Stroke Cycle Reciprocating Engines.
1–25. Same as section I.
26. Intake port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
27. Exhaust port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
28. Transfer port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing in combustion cycle.
29. Crankcase volume.
30. Precombustion chamber configuration and material.

III. Basic Engine Parameters—Rotary Engines.
1. Major axis dimension.
2. Minor axis dimension.
3. Eccentricity dimension.
4. Width of rotor housing dimension.
5. Generating radius dimension.
6. Intake port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing and overlap if exposed to combustion chamber.
7. Exhaust port(s).
a. Configuration.
b. Location.
c. Preparation.
d. Timing and overlap if exposed to combustion chamber.
8. Housing configuration and material.
9. Combustion cycle.
10. Method of aspiration.
11. Number of spark plugs per rotor.
12. Displacement.
13. Rotor and seals.
a. Number of rotors and seals per rotor.
b. Configuration and seal retention.
c. Materials.
14. Compression ratio.
15. Surface to volume ratio.
16. Combustion chamber configuration.
17. Intake manifold configuration and material.
18. Exhaust manifold configuration and material.
19. Advertised power at RPM.
20. Advertised torque at RPM.
21. Exhaust system configuration and backpressure.
22. Governor description.
23. Supercharger description.
24. Precombustion chamber configuration and material.

IV. Air Inlet System.
1. Air cleaner type configuration.
2. Air inlet temperature control system.
3. Inlet fresh air pick up method.
4. Maximum allowable restriction.

V. Fuel System.
1. Carburetion.
a. Number of carburetors.
b. Type.
c. Number of venturis per carburetor.
d. Venturi diameter.
e. Maximum air flow.
f. Fuel metering system type and calibration.
g. Enrichment system type and calibration.
h. Idle stop mechanism.
i. Starting system (e.g. choke).
j. Altitude compensation type and calibration.
k. Air-fuel flow specification (flow curve).
l. General compensation system type and calibration.
m. Component material.
n. Part number(s).
2. Fuel injection.
a. Control parameters.
b. Basic type (mechanical, electronic, timed, continuous).
c. Point of injection.
d. Maximum air flow.
e. Throttle mechanism type and calibration if applicable.
f. Fuel shutoff system type and calibration.
g. Cold start enrichment system type and calibration.
h. Enrichment system type and calibration.
i. Air-fuel flow specification (flow curve).
j. Altitude compensation type and calibration.
k. General compensation systems type and calibration.
l. Injector configuration and material.
m. Operating pressures.
n. Basic injector timing and advance characteristics.
o. Part number(s).
3. General.
a. Fuel pump configuration and specifications.
b. Fuel control mechanisms and vents.
c. Altitude compensation type and calibration.
d. Idle speed specification and setting procedure.
e. Idle mixture specification and setting procedure.
f. Fuel rate at maximum power (Diesel only).
g. Fuel rate at maximum torque (Diesel only).

VI. Ignition System.
1. General type and description of operation.
2. Basic initial timing.
3. Spark advance specifications.
4. Spark plug.
a. Heat range.
b. Gap.
c. Tip configuration or glow plug.
5. Ignition wire material.
6. Dwell (if applicable).
7. Starting circuit description.
8. General compensating systems type and calibration.
9. Altitude compensating system.
10. Insulation and heat sink (if applicable) material.
11. Part number(s).

VII. Cooling System.
1. Thermostat calibration.
2. Capacity of coolant.
3. Water pump capacity.

VIII. Engine Accessories.
1. Air conditioning system description and usage.
2. Power steering system description and usage.
3. Power brakes system description and usage.
4. Power take-off component(s) description and usage.
5. Vacuum take offs.

IX. Exhaust Emission Control System.
1. System type (air injection, smoke control, EGR, etc.) and method of operation.
2. Component design and materials.
3. Location of component on vehicle.
4. Calibration of components.
5. Part Number(s).

X. Evaporative Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).

XI. Crankcase Emission Control System.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).

XII. Auxiliary Emission Control Devices.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibration of components.
5. Part number(s).

XIII. Emission Control Related Warning Systems.
1. System type and method of operation.
2. Component design and materials.
3. Location of components on vehicle.
4. Calibrations of components.
5. Part number(s).

[FR Doc.75-28177 Filed 10-21-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 22, 1975



PART IV:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

ADULT INDOCHINESE REFUGEE EDUCATION PROGRAM

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 166—STATE ADULT EDUCATION PROGRAMS

Adult Indochinese Refugee Education Program

Pursuant to the authority contained in the Adult Education Act, as amended, 20 U.S.C. 1201, *et seq.*, the U.S. Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, purposes to amend Part 166 of Title 45 of the Code of Federal Regulations to add a new subpart G. This new subpart will set forth policies and procedures which govern the administration of supplemental funds which have been made available pursuant to the authority of the Indochina Migration and Refugee Assistance Act of 1975, Pub. L. 94–23.

1. *Program purpose.* The Adult Education Act provides for State-administered adult education programs which will enable all adults to continue their education at least to the level of completion of secondary school and make available the means to secure training that will enable them to become more employable, productive, and responsible citizens.

The regulations in this subpart pertain only to those State-administered adult education programs and services which are made available from funds appropriated under the Indochina Migration and Refugee Assistance Act of 1975. From this appropriation, $5 million will be distributed to the States in FY 1976, in accordance with the provisions of the Adult Education Act and the regulations in this subpart, for adult education services in order to promote the integration of the Indochinese refugees into American society.

Since estimates of the number of adults to be served by the program will not be available for some time, funds will be distributed to the States on the basis of the number of adult refugees (persons 18 years of age or older) initially resettling in that State. Participating States will be required to amend their FY 1976 annual program plans to set forth the policies and procedures to be followed by the State in the administration of these supplemental funds.The States are encouraged to make arrangements with public and private agencies, institutions, and organizations, in addition to local education agencies, where such institutions can make a significant contribution to meeting the objectives of the Adult Indochinese Refugee Education Program.

In accordance with section 309 of the Adult Education Act, expenditures for special experimental demonstration projects and teacher training programs are permissible provided the activity has a direct bearing on the educational needs of the Indochinese refugees. Funds may also be used to pay additional costs incurred by the State in the administration of the Adult Indochinese Refugee Education Program.

2. *Publication of final regulations.* In accordance with section 431(b)(2)(A) of the General Education Provisions Act, it is the practice of the Office of Education to provide an opportunity for interested parties to take part in its rulemaking process. However, this notice is given without such an opportunity based upon the Commissioner's finding, in accordance with 5 U.S.C. 553(b)(3)(B), that public comment upon a proposed rule would be contrary to the public interest in view of the emergency nature of the enabling legislation. This finding is premised on the rationale set forth in the following paragraphs.

A notice of proposed rulemaking is followed by a thirty-day comment period. If no substantive changes are made in the regulations, the statutory time period governing the effectiveness of the regulations (including the thirty-day period in section 431(b)(1) of the General Education Provisions Act and the forty-five day period for Congressional review in section 431(d) of the General Education Provisions Act) would run from the date of the proposed rule. However, if a proposed rule were issued and substantive changes were then made in the final rule, the statutory time period would run from the date of the final rule.

Prolonging the effective date of these regulations to allow for public comment would cause undue delay in the implementation of this program. Many States already impacted by the Indochina refugee resettlement program have adult education programs presently in operation for which reimbursement is needed. Accordingly, the emergency nature of the legislation dictates publication of final regulations at this time.

Although these regulations are being published in final form, public comment on the regulations is nevertheless invited for purposes of future policy-making and regulations with respect to the State Adult Education Program. Any comments should be addressed to the U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2085, Washington, D.C. 20202, Attention: Director, Rules and Regulations Office.

3. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each of the regulations has been placed in parentheses on the line following the text of the section.

4. *Effective date.* Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of this transmission, subject to the provisions therein concerning congressional action and adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.400, Adult Education—Grants to States)

Dated: October 3, 1975.

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

Approved: October 14, 1975.

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

Part 166 is revised to read as follows:

PART 166—STATE ADULT EDUCATION PROGRAMS

Subpart G—Adult Indochinese Refugee Education Program

Sec.

166.61 Scope.
166.62 Definitions.
166.63 Eligibility of State educational agency.
166.64 Amendment to annual program plan.
166.65 Use of funds.
166.66 Noncommingling of funds.
166.67 Reporting.

AUTHORITY: Pub. L. 94–23, 22 U.S.C. 2601; 20 U.S.C. 1201 *et seq.*, unless otherwise noted.

§ 166.61 Scope.

The regulations in this subpart govern the Adult Indochinese Refugee Education Program for which Federal funds are provided under the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L. 94–23). The purpose of this program is to provide financial assistance to the States for adult education services to promote the integration of Indochinese refugees into American society. These adult education programs and services are to be provided in accordance with the provisions of the Adult Education Act, as amended (20 U.S.C. 1201), the regulations in this subpart, and applicable regulations governing State Adult Education Programs (45 CFR 166.1 thru 166.52).

(22 U.S.C. 2601; 20 U.S.C. 1201 *et seq.*, H.R. No. 94–204, p. 3, (1975))

§ 166.62 Definitions.

(a) All terms used (but not defined) in this subpart which are defined in the Adult Education Act and subpart A of these regulations shall have the meaning given to them therein.

(b) The term "Indochinese Refugee," as defined in the Migration and Refugee Assistance Act of 1962, as amended, and used in this subpart, means "aliens who (A) because of persecution or fear of persecution on account of race, religion, or political opinion, fled from Cambodia or Vietnam; and (B) cannot return thereto because of fear of persecution on account of race, religion, or political opinion."

(22 U.S.C. 2601)

§ 166.63 Eligibility of State educational agency.

(a) Each State educational agency that conducts adult education programs with Federal funds authorized under the Adult Education Act is responsible for providing adult basic education and adult secondary education programs,

including bilingual adult education programs, for adult Indochinese refugees (as defined in subsection 166.62 of this subpart).

(b) To assist in defraying the cost of providing adult education services to Indochinese refugees, the U.S. Commissioner of Education will distribute funds authorized under Pub. L. 94-23 among the States on the basis of the number of adult Indochinese refugees (persons 18 years of age or older) initially resettling within each State from the relocation centers. Determinations of the number of adult Indochinese refugees within the States will be based on figures submitted to the U.S. Commissioner of Education by the Interagency Task Force on Indochina. These funds are to be used to supplement ongoing adult education programs conducted under the provisions of the Adult Education Act to provide services for adult Indochinese refugees.

§ 166.64 Amendment to annual program plan.

(a) Each State educational agency desiring to receive its entitlement of Federal funds to carry out the purposes of this subpart must amend its annual program plan no later than March 31, 1976, to set forth the policies, procedures, and methods it will use in implementing the Adult Indochinese Refugee Education Program. The amendment to the annual program plan shall provide a description of program plans for establishing or expanding adult education programs, particularly programs to ameliorate language problems to accommodate the adult Indochinese refugees.

(b) The amendments to the annual program plan must be developed in accordance with the policies, procedures, and criteria established by the State pursuant to §§ 166.12(b) and 166.13 of subpart C of these regulations. Notification of the amendments must be certified in the same manner as the annual program plan and submitted to the U.S. Commissioner of Education for approval. The payment of entitlements under this subpart is contingent upon the approval of the amendments by the U.S. Commissioner of Education.

(c) The effective date of the amendment to the annual program plan is the date on which it is submitted to the Assistant Regional Commissioner, Occupational and Adult Education Programs, in substantially approvable form. Federal funds will not be made available until the amendment is approved by the U.S. Commissioner of Education. Federal financial participation is available with respect to obligations incurred for Adult Indochinese Refugee Education Programs from the effective date of the FY 1976 annual program plan, notwithstanding the limitation on obligations set forth in § 100b.32(a) of regulations for the General Education Provisions Act.

(22 U.S.C. 2601, H.R. 94-204, p. 3, (1975), 20 U.S.C. 1205)

§ 166.65 Use of funds.

(a) All Federal funds awarded to the States under this subpart must be expended for adult education programs and services for adult Indochinese refugees. Refugees who have attained 16 years of age, and who are not currently required to be enrolled in school, are eligible to participate in the program.

(b) Funds may be expended under this subpart for special experimental demonstration projects and teacher training programs, in accordance with the provisions of section 309 of the Adult Education Act and subpart D of these regulations. These discretionary programs must bear a direct relationship to the needs of adult Indochinese refugees. Expenditures under this subpart for adult Indochinese refugees shall not be taken into account to determine whether the State educational agency used not less than 15 percent of its allotment under section 305 of the Adult Education Act for section 309 activities.

(c) Funds available under this subpart may be used to pay additional cost incurred by the State in the administration of Adult Indochinese Refugee Education Programs. The amount expended by a State for administration shall not exceed 7.5 percent of its total allotment. The expenditure of funds for the administration of Adult Indochinese Refugee Education Programs shall be set forth by categories of expenditures in report forms to be provided pursuant to § 166.67 of this subpart and the requirements of subpart P of GEPR.

(d) Of the funds allotted to a State under this subpart, not less than 75 percent shall be used for programs of instruction for adult Indochinese refugees. Emphasis shall be placed on speaking, reading, computational skills, and adult education services necessary to promote literacy among refugee adults for the purpose of enabling them to become responsible and productive members of American society. These funds may also be expended for guidance and counseling services with regard to educational, career, and employment opportunities for Indochinese refugees.

(e) The Commissioner reserves the right to waive or modify the application of the percentage requirement set forth in this section where he determines such waiver or modification is in the public interest.

(f) No State and local matching fund are required for eligibility for grants under this subpart.

(22 U.S.C. 2601; 20 U.S.C. 1208; 20 U.S.C. 1211)

§ 166.66 Noncommingling of funds.

The annual program plan shall set forth procedures to assure that Federal funds granted for the purposes of this subpart will not be commingled with other Federal, State, or local funds so as to lose their identity. In developing these procedures, it shall not be necessary to require separate bank accounts for these funds, so long as accounting methods will be established which assure that expenditures of the funds can be identified from other expenditures.

(22 U.S.C. 2601)

§ 166.67 Reporting.

(a) Each State shall report to the U.S. Commissioner of Education on all programs and services provided Indochinese refugees from funds administered under this subpart.

(b) Such reports shall be submitted as part of the financial and narrative reporting requirements under the Adult Education Act, as set forth in § 166.52 of these regulations and subparts P and Q of GEPR (45 CFR 100b). The information to be provided shall include:

(1) Total number of adult Indochinese refugees initially resettled within the State from the relocation centers, on or since the effective date of the FY 1976 annual program plan;

(2) Total allotment to the State from Federal funds administered under this subpart;

(3) Total number of local educational agencies (as defined in section 303(f) of the Adult Education Act), and other public and private agencies, institutions or organizations, that received grants from Federal funds administered under this subpart;

(4) Total number of adult Indochinese refugees that participated in adult education programs which were funded solely from Federal funds administered under this subpart;

(5) Total number of classes that were organized specifically for adult Indochinese refugees and were funded solely from Federal funds administered under this subpart;

(6) Total number of full-time and part-time adult education personnel whose salary was paid from Federal funds administered under this subpart (include administrators and supervisors of State and local programs, instructors, counselors, and other support personnel);

(7) Total number of classes of the regular State Adult Education Program (under the Adult Education Act) in which adult Indochinese refugees were enrolled.

(8) Total number of adult Indochinese refugees that were enrolled in public adult education programs, by type and level of instructional services provided (i.e., bilingual, adult basic education, adult secondary education);

(9) Detailed breakdown of expenditures for administration;

(10) Total expenditure from Federal funds administered under this subpart for special experimental demonstration projects and teacher training programs, as described in section 309 of the Adult Education Act;

(11) Description of any special experimental demonstration projects and teacher training programs funded under this subpart;

(12) Description of special services provided (i.e., recruitment efforts).

(20 U.S.C. 1232(b)(3)(c))

[FR Doc.75-28401 Filed 10-21-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 22, 1975



PART V:

CONSUMER PRODUCT SAFETY COMMISSION

■

CHILDREN'S SLEEPWEAR

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 302]

CHILDREN'S SLEEPWEAR IN SIZES 7 THROUGH 14

Proposed Requirement for Advertising of Noncomplying Items of Children's Sleepwear in Sizes 7 Through 14

In this document the Consumer Product Safety Commission proposes an amendment to 16 CFR 302.21, the regulation which prescribes labeling, recordkeeping, and other requirements for children's sleepwear items subject to the Standard for the Flammability of Children's Sleepwear; sizes 7 through 14 (FF 5–74) to add a provision applicable to advertisements for items which do not comply with the Standard and which are offered for sale on or after May 1, 1975, through May 1, 1978.

Background. The Standard was issued by the Consumer Product Safety Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) on May 1, 1974 (39 FR 15214), to become effective May 1, 1975, and was amended to add a requirement for labeling of items which are manufactured in accordance with the Standard on March 21, 1975 (40 FR 12811) (as corrected by a notice published in the FEDERAL REGISTER on March 27, 1975 (40 FR 13547)). Although the manufacturing of items of children's sleepwear in sizes 7 through 14 which do not comply with the Standard on and after May 1, 1975, is prohibited, sale of children's sleepwear items in sizes 7 through 14 which were manufactured before the effective date of the Standard and which are in the inventory of manufacturers, wholesalers, and retailers on the effective date of the Standard is allowed after May 1, 1975.

In the FEDERAL REGISTER of April 1, 1975, (40 FR 14584), the Commission issued an enforcement regulation, 16 CFR 302.21, to prescribe labeling, recordkeeping, and other requirements for items of children's sleepwear which are subject to the Standard.

Among the provisions of this regulation is the requirement of § 302.21(d) that every person who sells noncomplying items of children's sleepwear in sizes 7 through 14 at retail establishments after May 1, 1975, must segregate all items which comply with the Standard so that no other items of children's sleepwear in sizes 7 through 14 are located within 91 centimeters (36 inches) of complying items, and identify displays or complying items with at least one sign which states: "Flame Resistant. Complies with the Standard for the Flammability of Children's Sleepwear (FF 5–74)"; displays of noncomplying items must be identified by at least one sign which states: "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (FF 5–74)."

Additionally, the provisions of § 302.21 (b)(8) and paragraph .6(b) of the Standard, as amended, require that all items of children's sleepwear in sizes 7 through 14 which are manufactured on or after May 1, 1975, through May 1, 1978, and which comply with the Standard must bear a label which is conspicuous, legible, and readily visible at the point of sale to state: "Flame Resistant. U.S. Standard FF 5–74."

The purpose of these provisions in the regulation is to facilitate identification of complying children's sleepwear items in sizes 7 through 14 by consumers.

Purpose of this proposal. In its present form, the regulation will facilitate identification of complying and noncomplying items of children's sleepwear in sizes 7 through 14 if the items are offered for sale to consumers at a store or other retail establishment where consumers may examine the goods before purchasing them. However, if children's sleepwear items in sizes 7 through 14 are offered for sale to consumers by direct mail, telephone solicitation, or other method of sale by which the consumer does not have the opportunity to examine the goods before purchase, no provision of the existing regulation requires the seller to state whether or not the items comply with the Standard.

For this reason, the Commission proposes to amend the regulation to require that when noncomplying items of children's sleepwear in sizes 7 through 14 are offered for sale to consumers by mail order or under other circumstances where the consumer does not have the opportunity to examine the goods before purchase, on or after May 1, 1975, through May 1, 1978, all advertisements for such goods must contain a clear and conspicuous disclosure of the statement "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (FF 5–74). Should not be worn near sources of fire." Additionally, if items which comply with the Standard are advertised in catalogs or other promotional materials containing advertisements for noncomplying items on or after May 1, 1975, through May 1, 1978, all items which comply with the Standard must be identified with a clear and conspicuous disclosure of the statement "Flame resistant. U.S. Standard FF 5–74."

The provisions of the proposed amendment are applicable only to those catalogs or other promotional items which contain advertisements for noncomplying items and which are distributed on or after May 1, 1975, through May 1, 1978.

Proposal. Pursuant to provisions of the Flammable Fabrics Act (sec. 5, 67 Stat. 112–113, as amended 81 Stat. 571; 15 U.S.C. 1194), and under authority vested in the Consumer Product Safety Commission by the Consumer Product Safety Act (Public Law 92–573, sec. 30 (b), 86 Stat. 1231; 15 U.S.C. 2079(b)), the Commission proposes to amend 16 CFR 302.21 by redesignating paragraphs (c), (d), (e), (f), and (g) as paragraphs (d), (e), (f), (g), and (h), respectively, and by adding paragraph (c) as follows:

§ 302.21 Children's sleepwear, sizes 7 through 14—labeling recordkeeping, retail display, and guaranties under FF 5–74.

* * * * *

(c) *Advertisements.* If noncomplying items of children's sleepwear in sizes 7 through 14 are offered for sale to consumers on or after May 1, 1975, through May 1, 1978, by direct mail advertisements, catalogs, telephone solicitation, or in any other circumstances where the consumer, in the ordinary course of dealing, is not afforded an opportunity to inspect the item before receiving it, all such noncomplying items shall be identified by a clear and conspicuous disclosure of the statement "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (FF 5–74). Should not be worn near sources of fire." If items which comply with the Standard are advertised in catalogs or other promotional materials containing advertisements for noncomplying items of children's sleepwear in sizes 7 through 14 on or after May 1, 1975, through May 1, 1978, all items which comply with the Standard shall be identified with a clear and conspicuous disclosure of the statement "Flame resistant. U.S. Standard FF 5–74."

* * * * *

(Sec. 5, 67 Stat. 112–113, as amended 81 Stat. 571; 15 U.S.C. 1194.)

Interested persons are invited to submit, on or before November 21, 1975, written comments regarding this proposal. Comments received after November 21, 1975, will be considered whenever practicable. Comments and any accompanying material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, 10th Floor, 1750 K Street, Washington, D.C., during working hours Monday through Friday.

Dated: October 17, 1975.

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

[FR Doc.75-28437 Filed 10-21-75;8:45 am]

CONSUMER PRODUCT SAFETY COMMISSION

CHILDREN'S SLEEPWEAR

Retail Display Requirements; Policy Statement

In this notice the Consumer Product Safety Commission issues a policy statement to clarify application of the retail display requirements of 16 CFR 302.21(c) to certain items of children's sleepwear in sizes 7 through 14 manufactured before May 1, 1975.

Background. The Standard for the Flammability of Children's Sleepwear: sizes 7 through 14 (FF 5–74) was issued by the Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) on May 1, 1974 (39 FR 15210) with an effective date of May 1, 1975, and sets forth requirements for sampling and testing of fabric and garments intended for use as children's sleepwear in sizes 7 through 14. The Standard was amended on March 21, 1975 (40 FR 12811) (as corrected by a notice published in the FEDERAL REGISTER on March 27, 1975 (40 FR 13547)) to require all items of children's sleepwear in sizes 7 through 14 manufactured between May 1, 1975 and May 1, 1978, to be label with the statement "Flame Resistant. U.S. Standard FF 5–74."

In the FEDERAL REGISTER of April 1, 1975 (40 FR 14854), the Commission issued enforcement regulations (16 CFR 302.21) applicable to children's sleepwear items in sizes 7 through 14, to become effective May 1, 1975. Provisions of § 302.21(b)(8) of those regulations state that the affirmative label required by the amended Standard to indicate that the item complies with the Standard must be "prominent, conspicuous, legible and readily visible at the point of sale to ultimate consumers," but do not require the label to be permanent. Provisions of § 302.21(b)(7) require all garments which are subject to the Standard to bear a permanent stamp or label to indicate the production unit identification. As issued by the Commission on April 1, 1975, provisions of §§ 302.21(b)(4) and (7) required that if the garment production unit identification is not readily visible at the point of sale, the package containing the item must be labeled to display the garment production unit identification. On July 2, 1975, the Commission published a notice in the FEDERAL REGISTER (40 FR 27932) to announce that those sections of the regulations were amended to require that garments subject to the Standard must have either a garment production unit identification or a style identification which is readily visible at the point of sale.

Section 302.21(c) of the regulations requires that any retailer who handles items of children's sleepwear in sizes 7 through 14 which do not comply with the Standard must display those noncomplying items in a location at least 91 centimeters (36 inches) from any complying items, and identify all noncomplying items with a sign which states: "Flammable. Does Not Meet Standard for the Flammability of Children's Sleepwear (FF 5–74)."

Although the Standard and the enforcement regulations did not become effective until May 1, 1975, some manufacturers of children's sleepwear in sizes 7 through 14 manufactured items in those sizes which met all of the sampling and testing requirements of the Standard before that date. However, some of these items do not meet the requirement of paragraph .6(b) of the Standard, as amended, and § 302.21(b)(8) of the regulations for an affirmative label to indicate that they are manufactured in accordance with the Standard, and in some cases do not meet all requirements of §§ 302.21(b)(4) and (7) for a readily visible garment production unit identification or style identification.

A retailer has asked whether garments manufactured before May 1, 1975, which meet the sampling and testing requirements of the regulation, but which do not bear the required affirmative labels, or garment production unit identifications or style identifications which meet all requirements of the regulations, must be displayed as "noncomplying" items in accordance with § 302.21(c) of the regulations.

The purpose of the requirement in the Standard for a label to identify items which are manufactured to comply with the Standard, and of the requirement in the enforcement regulations for physical segregation and identification of displays of complying and noncomplying items is to facilitate identification of complying and noncomplying sleepwear items in sizes 7 through 14 by consumers.

The Commission observes that garments which were manufactured before May 1, 1975, in accordance with the sampling and testing requirements of the Standard but which do not bear the required affirmative labels or garment production unit identifications or style identifications give the same protection to the consumer against burn injuries from accidental ignition of clothing as items which comply with all of these labeling requirements as well as the sampling and testing requirements of the Standard. The Commission also observes that if retailers were required to identify items which were manufactured in accordance with the sampling and testing requirements of the Standard but which do not bear affirmative labels or garment production unit identifications or style identifications meeting all requirements of §§ 302.21(b)(4), (7) and (8), as "Flammable," and were required to display them together with items which do not meet the sampling and testing requirements of the Standard, consumers would receive no additional benefit, and the sale of merchandise which gives consumers the protection which the Standard was intended to provide would be discouraged.

Policy. For these reasons, the Commission issues the following statement of policy regarding application of 16 CFR 302.21(c) to certain items of children's sleepwear in sizes 7 through 14 which were manufactured before May 1, 1975:

For purposes of the retail display and identification requirements of 16 CFR 302.21(c), and for those purposes only, any item which was manufactured before May 1, 1975, and for which a retailer has documentary evidence of compliance with all sampling and testing requirements of the Standard (FF 5–74), will be deemed to be a complying item notwithstanding the absence of an affirmative label to indicate compliance with the Standard as required by paragraph .6(b) of the Standard and 16 CFR 302.21(b)(8), or the absence of a garment production unit identification or style identification which meets all requirements of 16 CFR 302.21(b)(4) and (7), provided that such an item complies with all other labeling requirements of 16 CFR 302.21(b).

Dated: October 17, 1975.

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

[FR Doc.75-28464 Filed 10-21-75;8:45 am]

CHILDREN'S SLEEPWEAR

Garment Production Unit Identification; Policy Statement

In this notice, the Consumer Product Safety Commission issues a policy statement regarding the provisions of 16 CFR 302.19(b)(8) and 16 CFR 302.21(b)(7), which set forth requirements for garment production unit identifications on children's sleepwear garments subject to the Standard for the Flammability of Children's Sleepwear (DOC FF 3–71; as amended), applicable to items in sizes 0 through 6X, or to the Standard for the Flammability of Children's Sleepwear; sizes 7 through 14 (FF 5–74), both of which were issued under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.).

Background. The Standard for the Flammability of Children's Sleepwear (DOC FF 3–71; as amended) was published in the FEDERAL REGISTER on July 21, 1972 (37 FR 146224), and became effective July 29, 1972. The Standard for the Flammability of Children's Sleepwear; sizes 7 through 14 (FF 5–74) was issued by the Commission on May 1, 1974 (39 FR 15210) with an effective date of May 1, 1975. Both Standards contain a requirement that children's sleepwear must be manufactured in production units which are limited in size by the Standards, and both Standards set forth procedures for sampling and testing garments.

In the FEDERAL REGISTER of February 7, 1974 (39 FR 4852), the Commission issued enforcement regulations, 16 CFR 302.19, to prescribe labeling and advertising requirements applicable to children's sleepwear items in sizes 0 through 6X. In the FEDERAL REGISTER of April 14, 1975 (40 FR 16654), the Commission issued an amendment to these regulations, 16 CFR 302.19(b)(8), to require that every children's sleepwear garment in sizes 0 through 6X manufactured on or after May 14, 1975, must bear a permanent label or stamp to designate the garment production unit in which the garment was manufactured.

In the FEDERAL REGISTER of April 1, 1975 (40 FR 14584), the Commission issued enforcement regulations, 16 CFR 302.21, applicable to children's sleepwear items in sizes 7 through 14. Section

302.21(b)(7) of those regulations requires that each sleepwear garment in sizes 7 through 14 manufactured after May 1, 1975, must bear a permanent label or stamp to designate the production unit in which the garment was manufactured.

On April 18, 1975, the American Apparel Manufacturer's Association (AAMA) petitioned the Commission, requesting among other things that the Commission issue a statement of clarification to the effect that neither the provisions of 16 CFR 302.19(b)(8) nor of 16 CFR 302.21(b)(7) prohibit the garment production unit identification from appearing on a label containing other information. The petition from AAMA states that both sections set forth specific requirements which must be met if a separate label is used for the garment production unit identification, but neither section contains language to make the use of a septrate label for the garment production unit identification mandatory.

AAMA also states that some language in the preamble to the amendments to 16 CFR 302.19, published on April 14, 1975 (40 FR 16654) indicates that provisions of that regulation do not allow the garment production unit identification to appear on a label containing other information, although no language in the text of the regulation specifically requires the use of a separate label for the garment production unit identification.

The Commission concludes that no provision of either of the regulations in question prohibits the placement of the garment production unit identification on a label containing other information, and that a statement of clarification should be issued.

Policy. For these reasons, the Commission issues this statement of policy regarding the requirements of 16 CFR 302.19(b)(8) and 16 CFR 302.21(b)(7):

No provision of 16 CFR 302.19(b)(8) or of 16 CFR 302.21(b)(7) prohibits placement of a garment production unit identification on a label containing other information. Provided, however, that when the garment production unit identification appears on a label containing other information, provisions of 16 CFR 302.19(b)(7) and 16 CFR 302.21(b)(6) require that the garment production unit identification must be set forth separately from any other information appearing on the same label, and that information not required by the applicable enforcement regulation (16 CFR 302.19 or 16 CFR 302.21), but placed on the same label with the garment production unit identification, shall not interfere with the garment production unit identification.

Dated: October 17, 1975.

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

[FR Doc.75-28465 Filed 10-21-75;8:45 am]

CHILDREN'S SLEEPWEAR

Recordkeeping Requirements for Garments Manufactured on or After May 1, 1975, From Fabric Manufactured Before May 1, 1975; Policy Statement

In this notice, the Consumer Product Safety Commission issues a policy statement to clarify application of certain recordkeeping requirements which appear in the enforcement regulations applicable to children's sleepwear garments in sizes 7 through 14 (16 CFR 302.21) if those garments are manufactured on or after May 1, 1975, from fabric manufactured before May 1, 1975.

Background. The Standard for the Flammability of Children's Sleepwear; sizes 7 through 14 (FF 5-74) was issued by the Commission under the Flammable Fabrics Act (15 U.S.C. 1191 et seq.) on May 1, 1974 (39 FR 15210), with an effective date of May 1, 1975, and sets forth requirements for sampling and testing of fabric and garments intended for use as children's sleepwear in sizes 7 through 14. The Standard was amended on March 21, 1975 (40 FR 12811) (as corrected by a notice published in the FEDERAL REGISTER on March 27, 1975 (40 FR 13547)) to require all items of children's sleepwear in sizes 7 through 14 manufactured between May 1, 1975, and May 1, 1978, to be labeled with the statement: "Flame Resistant. U.S. Standard FF 5-74."

In the FEDERAL REGISTER of April 1, 1975 (40 FR 14584), the Commission issued enforcement regulations (16 CFR 302.21) to establish recordkeeping and other requirements applicable to children's sleepwear in sizes 7 through 14, to become effective May 1, 1975.

Among the recordkeeping requirements of the regulations is § 302.21(d)(4)(i), which provides that persons who manufacture, import, or otherwise initially introduce garments which are subject to the Standard into interstate commerce, must maintain records to show the fabric production unit identification of the fabrics used in each production unit of garments.

On April 18, 1975, the American Association of Apparel Manufacturers (AAMA) petitioned the Commission for clarification of provisions of § 302.21(d)(4)(i) with regard to garments in sizes 7 through 14 manufactured on or after May 1, 1975, from fabrics which were manufactured before that date. In this petition, AAMA indicates that fabrics intended for use in children's sleepwear in sizes 7 through 14 which were manufactured before May 1, 1975, the effective date of the Standard, are not subject to the requirement to have assigned production unit identifications. AAMA states that a policy statement to clarify the application of the provisions of § 302.21(d)(4)(i) is needed to allow garment manufacturers to utilize fabrics manufactured before May 1, 1975, in the production of garments manufactured after the effective date of the Standard. When it issued the Standard (FF 5-74) and the enforcement regulations (16 CFR 302.21), the Commission did not intend to prohibit the use of fabric which passes the test criteria and was manufactured before May 1, 1975, in the production of any sleepwear garments manufactured on or after May 1, 1975, which are subject to the Standard.

The Commission observes that fabrics manufactured before May 1, 1975, are not subject to the Standard, and for that reason are not required to be manufactured in production units. The Commission further observes that if fabrics which were not manufactured in production units are used on or after May 1, 1975, to make garments which are subject to the Standard, the garment manufacturer will not be able to record the fabric production unit identification where none exists. However, the Commission observes that any sleepwear garment in sizes 7 through 14 manufactured on or after May 1, 1975, must meet the test criteria and all other requirements of the Standard (FF 5-74).

On April 25, 1975, the Commission took action to grant that part of the AAMA petition which requested issuance of a policy statement to clarify the application of the regulations to garments manufactured on or after May 1, 1975, from fabric manufactured before May 1, 1975. The Commission notified AAMA of its decision by telephone on April 25, 1975; issued a press release to announce its decision to the public on April 28, 1975; and confirmed its notification to AAMA by letter dated May 14, 1975.

Policy. For the reasons set forth above, the Commission makes the following statement of policy regarding the application of 16 CFR 302.21(d)(4)(i) to certain fabrics manufactured before May 1, 1975.

No provision of the Standard for the Flammability of Children's Sleepwear; sizes 7 through 14 (FF 5-74) or of the enforcement regulations at 16 CFR 302.21 prohibits the utilization of fabric which was manufactured before May 1, 1975, and which was not manufactured in production units, in the manufacture of children's sleepwear garments which are subject to the Standard. When such fabric is utilized in the manufacture of such garments, the inability of the garment manufacturer to record the fabric production unit identification of such fabric does not constitute a violation of 16 CFR 302.21(d)(4)(i).

Dated: October 17, 1975.

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

[FR Doc.75-28466 Filed 10-21-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 22, 1975



PART VI:

DEPARTMENT OF LABOR

Manpower Administration

■

EMERGENCY COMPENSATION AND SPECIAL UNEMPLOYMENT ASSISTANCE EXTENSION

Implementation

DEPARTMENT OF LABOR

Manpower Administration

[General Administration Letter No. 9–75; Field Memorandum No. 354–75]

EMERGENCY COMPENSATION AND SPECIAL UNEMPLOYMENT ASSISTANCE EXTENSION

Implementation

On June 30, 1975, President Ford signed into law P.L. 94–45, the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975. In addition to extending unemployment compensation benefits for those individuals covered in the law (referred to as FSB claimants), this law required that these individuals be reviewed to determine their needs for training; that those who need training apply for it; and if accepted, that the claimant must participate in training in order to receive or to continue receiving the Federal supplemental benefits (FSB). To implement section 103 of P.L. 94–45, the Manpower Administration has issued General Administration Letter No. 9–75 to all State Employment Security Agencies and Field Memorandum No. 354–75 to all Department of Labor regional offices.

The intent of the law is to review the status and needs of those individuals receiving FSB and to make every effort to provide them with the necessary training which would enable them to obtain full-time unsubsidized employment. Nominally, FSB claimants are long-term jobless workers, with significant labor force experience who have exhausted 39 weeks of unemployment insurance. Therefore, it is essential that the national, State, and local manpower systems cooperate in a full scale effort to interview all FSB claimants, assess their needs for training, and where training is indicated, ensure that to the maximum extent possible, appropriate training opportunities are made available to these long-term claimants.

To meet these goals, I am instructing all State Employment Security Agencies (GAL No. 9–75) to interview all FSB claimants, determine their needs for training, and in cooperation with local CETA prime sponsors ensure that these individuals, to the maximum extent feasible, are provided with appropriate training opportunities.

During the past 12 months, the Unemployment Insurance system experienced the highest volume of claims activity in its 40-year history. In responding to this challenge many States were forced to modify their normal operating procedures. As a part of the implementation of P.L. 94–45, the States are being asked to reinstitute the periodic reinterview program to provide a complete assessment of FSB claimant needs.

As a part of this process the States will interview all FSB claimants to determine their needs for training, and in cooperation with local CETA prime sponsors, ensure that these individuals, to the maximum extent feasible, are provided with appropriate training opportunities. Specific instructions are contained in General Administration Letter 9–75.

Furthermore, I am requesting that every CETA prime sponsor (FM No. 354–75), in cooperation with the State and local employment security agencies, determine the number of FSB claimants in their jurisdiction who may be in need of training and review their entire CETA program (especially institutional training and on-the-job training) to determine the maximum number and type of training positions which can be made available to FSB claimants.

While both the CETA prime sponsors and the State Employment Security Agencies are already engaged in services to FSB claimants, I am requesting that these two primary manpower agencies join in a formal cooperative effort to ensure that maximum resources and services are made available to these long-term unemployed individuals. It is absolutely essential that as our economy continues to improve, prime sponsors and State Employment Security Agencies make every effort to provide those long-term unemployed persons with the necessary training or retraining to return them to full-time productive employment.

The entire text of both GAL No. 9–75 and Field Memorandum No. 354–75 is published here to inform all interested parties of the Department's implementing procedures. While these procedures are effective immediately, comments are invited and should be submitted to Mr. Lawrence E. Weatherford, Jr., Associate Manpower Administrator for Unemployment Insurance, Department of Labor, Room 7000, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

OCTOBER 15, 1975.

U.S. DEPARTMENT OF LABOR
Manpower Administration
Washington, D.C. 20213

CLASSIFICATION	
CORRESPONDENCE SYMBOL	MUM
DATE	October 15, 1975

DIRECTIVE: GENERAL ADMINISTRATION LETTER NO. 9-75

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : FLOYD E. EDWARDS FEE
Associate Manpower Administrator
for Field Direction and Management

SUBJECT : Implementation of Section 103 of P.L. 94-45 Regarding Offers of Training Opportunities to Federal Supplemental Benefits (FSB) Claimants

1. Purpose: The Manpower Administration is concerned that the new provision of P.L. 94-45 be implemented as effectively as possible and that a total manpower effort at the State and local level be involved in this process. The FSB claimant has, in most cases, been unemployed for a long period of time and every effort must be made to assist him or her in obtaining permanent unsubsidized employment. This means that State Employment Security Agencies must take immediate steps to insure that FSB claimants are interviewed to determine their eligibility and availability for work and training, that they are exposed to every potential work and training opportunity, and that refusals of work or training are acted upon. In order to accomplish these objectives, it is necessary to prescribe rather specific and detailed procedures for both the State Employment Security Agencies and the CETA prime sponsors to ensure total coordination in providing the maximum services available to FSB claimants.

2. References. P.L. 94-45, The Emergency Compensation and Special Unemployment Assistance Extension Act of 1975; FL 11-75; and RAL 3-75.

3. Background. Section 103 of P.L. 94-45 provides: "Sec. 103 (a) Section 102 of the Emergency Unemployment Compensation Act of 1974 is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding the preceding provisions of this section, emergency compensation shall not be payable for any week to an individual who is not a participant in a training program which is approved by the Secretary if --

"(1) the State determines that there is a need for upgrading or broadening such individual's occupational skills and a program which is approved by the Secretary for such upgrading or broadening is available within a reasonable distance and without charge to the individual for tuition or fees, and

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"(2) such individual is not an applicant to participate in such a program."

The Manpower Administration has interpreted this provision to require the State agencies to interview each FSB claimant and examine the claimant's prospects for obtaining employment in the labor market area. In addition, the State must determine the need for upgrading or broadening the individual's occupational skills, and when such a need is identified, direct the claimant to apply for such training as a condition of further eligibility for FSB benefits.

4. Coordination and responsibilities. Effective implementation of this provision will require close cooperation between the UI and ES components of SESA's as well as with CETA prime sponsors, and other providers of training. State agencies are encouraged to delegate responsibility for negotiating with prime sponsors to the agency representative who has jurisdiction in the local area.

a. SESA Responsibilities

(1) Joint ES-UI Activities. Joint actions to be taken include the following:

(a) Analyze current and anticipated FSB workloads in order to establish the impact for individual local offices and the personnel requirements for carrying out the activities contained in this document.

(b) Initiate contact with prime sponsors to:

- Lay the basis for development of a cooperative agreement.
- Discuss coordination of activities.
- Share appropriate FSB data.
- Brief prime sponsors on the application of UI law to CETA responsibilities under this program, where requested.
- Insure that information about available training opportunities is obtained from prime sponsors.
- Make necessary arrangements with prime sponsors for referral of FSB claimants for training, and for reporting by prime sponsors of the results of the referral including potentially disqualifying information. Insure mutual understanding of reporting requirements.

(c) Prepare and conduct the necessary training of designated staff (ES and UI). For UI, this will include needed training relevant to the reinstitution of the periodic interview)Reemployment Assistance and Review). For both UI and ES, this will include training in the methods and procedures for carrying out their responsibilities with respect to FSB claimants.

(d) Plan for the orderly call-in, interview, and referral of FSB claimants to avoid overloading either UI or ES offices.

(e) Plan for provision of information regarding FSB claimants, training opportunities, and information needed for reporting purposes.

(2) UI Related Activities

(a) Determine intake procedure and schedule FSB claimants for interview, taking first new FSB claimants. This procedure should include calling in new FSB claimants on a current basis and, at the same time, processing of continued claimants as rapidly as possible.

(b) Use the periodic interview process to:

- Make a preliminary assessment of the claimant's need for training.
- Explore continuing eligibility for benefits in accordance with Section 5460-5467, Part V of the ES Manual, "Subsequent periodic interviews."

(c) Inform the claimant of the new disqualification provision in P.L. 94-45 and the potential effect on his claim of his failure to apply for, accept, or continue in approved training. This information should include an explanation that Congress has directed that participants in the FSB Program must be applicants for or enrolled in training (under conditions specified in this document) when training is available and that failure to apply for, accept, or continue in such training can result in termination of FSB benefits.

(d) Assess the claimant's needs for upgrading or broadening his occupational skills by obtaining information on the following:

- Length of unemployment.
- Length of employment in regular occupation.
- Skill level (e.g., skilled, semi-skilled, unskilled).

. Attachment to employer or industry.

. Anticipated duration of unemployment (job prospects).

. Education and training (including vocational and military).

. Special skills (vocational and avocational).

(e) Based upon this information, determine whether the claimant should be referred to the Employment Service. Generally, referral to the Employment Service for training consideration is not indicated for persons:

. whose skill level entailed an apprenticeship period or other long-term or high level training.

. who have an attachment to an employer or industry and a reasonable expectation of return to employment in their respective occupations.

. who have a proven skill in an occupation in which openings may be expected to occur.

. who have prospects for early reemployment.

. who are unemployed due to seasonal factors.

(f) Generally, referral to the Employment Service is indicated for persons:

. who lack a marketable skill.

. whose skills are obsolete, that is, no longer needed in the labor market.

. whose ability to compete for openings will be improved by broadening or upgrading existing skills.

(g) Insure that claimants determined by the interview to need training complete a form applying for appropriate training (sample format attached). If the claimant refuses to sign an application for training form, procedures in (j) will apply.

(h) Schedule and refer claimants in need of training to the Employment Service.

(i) Process information received from the Employment Service on refusal to accept referral to, report to or participate in training, or continue in training.

(j) Make determinations of eligibility for continued receipt of benefits. If the agency finds that a claimant who has been determined to need training has failed to apply or refused to participate in appropriate training, a written determination must be issued to the claimant in accordance with the Claims Determination Standard Section 6010-6019, Part V of the ES Manual. The same appeals rights and procedures will apply in these cases as to regular UI claims.

The disqualification under the law will be applicable if a claimant:

- Refused to sign an application for training (g) above.
- Refused to accept a suitable training opportunity.
- Refused to apply for training to which he is referred by the Employment Service.
- Failed to report for or participate satisfactorily in training after having been accepted by the training facility.
- Discontinued training before completion.

Other eligibility issues such as availability for and ability to work arising with respect to this claimant group will be resolved in accordance with normal procedure under the applicable State law (see (i) under ES Related Activities).

(k) Annotate claim forms to record the periodic interview and the completion of the training application form.

(3) ES Related Activities

(a) Insure that all FSB claimants routed to ES as in need of training are actively registered for employment and that the application cards are annotated to identify them as FSB claimants.

(b) Insure that information regarding the number and kind of training opportunities (available through CETA prime sponsors and other institutions) is available on a current basis in the local ES offices.

(c) Interview claimants to make final determination of claimant's need for training, providing counseling and testing services as needed. Consider application for:

. OJT and classroom training available from the CETA prime sponsor within a reasonable distance.

. Other training available within a reasonable distance and without charge to the individual for tuition or fees, such as available VA training for eligible veterans, and adult vocational training courses.

. Referral to available job openings.

(d) Refer claimant to currently available appropriate training (see definition of appropriate training) opportunity or job opening, using Form ES-508 or its equivalent. It is recommended that:

(1) the ES develop a procedure for making referrals to prime sponsors, including a method to insure that an opportunity is available prior to referral (in areas having a heavy FSB workload, a referral schedule may be appropriate) and,

(2) care should be taken not to refer a claimant to training that exceeds the duration of his remaining FSB eligibility, unless the prime sponsor has agreed to provide training allowances at the expiration of the claimant's FSB eligibility.

(e) Obtain information on result of referral

- If referred to an available CETA training opportunity, the possible outcomes include:

  . acceptance of training and enrollment in CETA.

  . refusal of training.

  . non-offer of training by the prime sponsor due to prime sponsor's determination that training for which referred is inappropriate.

  . offer of a different type of training by the prime sponsor and acceptance of the offer by the claimant.

  . offer of a different type of training by the prime sponsor, and refusal of the offer by the claimant.

  . offer of work experience, PSE slot, or unsubsidized employment by the prime sponsor and acceptance by the claimant.

. offer of work experience, PSE slot or unsubsidized employment by the prime sponsor and refusal by the claimant.

- If referred to other training available within a reasonable distance and without charge to the individual for tuition or fees, ascertain whether the claimant accepted or refused the training offered.

- If referred to an available appropriate job opening, ascertain whether the claimant was offered the job and whether he accepted or refused it.

(f) Record results of referral, including reasons for refusal for FSB claimants.

(g) In those cases where, 1) the claimant refused an alternate offer of training by the prime sponsor, or, 2) where the prime sponsor determined that the training for which the claimant was referred was inappropriate, the ES will then redetermine the appropriateness of the training offered.

(h) Notify UI of any refusal to accept referral to, to report to or participate in training, or any failure to continue or complete training. The report should include at least the following information:

. Claimant's name and social security number.

. Local ES office and interviewer making the report.

. Identification of training opportunity refused or training program in which enrolled but failed to participate satisfactorily or complete.

. Date of refusal or termination of training.

. Reason for refusal or failure to participate in training, if known.

(i) Notify UI of any refusal to accept a job offer, or a work-experience or PSE job slot offer in accordance with standard operating procedures.

b. CETA Prime Sponsor Responsibilities

Separate instructions are being issued to MA Regional Offices defining further the actions required of prime sponsors that include the follqwing:

(1) CETA programs are expected to be the major sources to which ES interviewers will refer FSB claimants in need of training. In order that the ES can be aware of the level of service which the prime sponsor can be expected to provide, the prime sponsor is being asked to take the following steps:

(a) Assess the incidence of FSB claimants in its area to determine the extent to which FSB claimants constitute a significant segment of the prime sponsor's unemployed work force, utilizing information which will be provided by the ES on the number of FSB claimants in the prime sponsor's area as compared to the number of total unemployed in the area or through whatever method is used by the prime sponsor in determining significant segments.

(b) Determine the number of on-the-job training and classroom training opportunities it can make available to FSB claimants in accordance with the following:

- the number of FSB claimants the prime sponsor can reasonably serve in accordance with the information determined in Step (a);

- the number of FSB claimants whom the ES estimates could potentially be referred for training consideration during the balance of the fiscal year.

- the number of on-the-job training and classroom training opportunities which the prime sponsor expects will be available for the balance of FY '76 based on projected turnover of training slots which are already filled and based on those training slots which will become available according to the Comprehensive Manpower Plan for FY '76. In addition, the prime sponsor is being instructed to look at plan versus actual in other activity areas to determine whether any funds currently planned for work experience, public service employment, and manpower services should be reprogrammed for on-the-job training and classroom training programs to serve FSB claimant referrals.

(c) Identify the kinds of on-the-job training and classroom training opportunities which are and will be available, and other information available such as the expected dates when the training will open up and the location of the training.

(2) After the above identifications and assessments are made, the prime sponsor and the ES will begin developing a written cooperative agreement, which will include the following information:

(a) The number of FSB claimants in the prime sponsor's area in relation to the total number of unemployed in the area.

(b) The number of FSB claimants whom the ES estimates could potentially be referred for training consideration.

(c) The number of FSB claimants for whom the prime sponsor expects to be able to provide training opportunities, and an explanation of how this number was derived, including information on projected turnover, funds planned for on-the-job training and classroom training, and if appropriate, reprogramming of funds planned for non-training activities.

(d) Information regarding the specific kinds of training which can be provided for FSB claimants, dates when the training will become available, location of the training, etc.

(e) The system by which the prime sponsor can provide the ES information on a continuing and timely basis regarding available training slots so that the ES can refer FSB claimants for application. The procedures for transmittal of this information and the timeliness and degree of information deemed essential are to be mutually agreed upon between the prime sponsor and the ES. The frequency and method for communicating the information should be specified in the agreement. It is recommended that the agreement indicate that the ES will contact the prime sponsor prior to each actual referral.

(f) The procedure by which the ES will make the referrals to prime sponsors, including a method to insure that an opportunity is available prior to referral. In areas having a heavy FSB workload, a referral schedule may be appropriate.

(g) Determination of whether the prime sponsor will agree to pick up the full basic allowance payments to any individuals whose FSB payments are exhausted prior to the termination of the training opportunity.

(h) The number and types of other opportunities (i.e., public service employment and work experience positions) which the prime sponsor expects it can provide the FSB claimants, and as much other information regarding these opportuhities as possible.

(i) The system by which the ES can obtain from the prime sponsor information regarding the outcomes of FSB claimant referrals.

NOTE: In any instance where the FSB claimant rejects an offer of any opportunity offered, the ES will need to obtain the reasons for such rejection.

(3) Once this cooperative agreement is developed, the following steps will be implemented by the prime sponsors:

(a) If the prime sponsor determined that the FSB claimants constituted a significant segment of its unemployed workforce, the prime sponsor is to take the following steps:

- submit a copy of the cooperative agreement to the ARDM.

- inform the ARDM, in writing, that a modification to the Comprehensive Manpower Plan will be made and to indicate the types of modification that will be made (i.e., narrative, minor, major).

(b) If the FSB claimant does not constitute a significant segment of a prime sponsor's unemployed work force, a modification to the Comprehensive Manpower Plan will not be necessary. However, the prime sponsor will still be required to develop the cooperative agreement with the ES. The prime sponsor must inform the ARDM, in writing, that it will not be modifying its plan, and at the same time, submit a copy of the cooperative agreement.

5. Duration of Disqualification. Refusal to participate in or apply for appropriate training bars the claimant from FSB unless and until appropriate training is again available and the claimant applies for and participates in such training.

6. Interstate Claimants. Agent States are responsible for interviewing interstate claimants and reporting any issues to the liable State.

7. Effective Dates of These Requirements. Section 103 was effective July 1, 1975, and applies to any refusals of training arising after that date.

8. Reporting Requirements. RAL 3-75 will be revised to include the following items:

a. The number of periodic interviews given FSB claimants.

b. Number of claimants determined to need training (referred by UI to ES).

c. Number of claimants referred to training opportunities.

d. Number of claimants entering in training programs.

e. Number of claimants refusing referral to training or failing to participate in training.

f. Number of refusals of, or failures to participate in training resulting in denial.

9. Definitions

(a) Approved Training

The determination as to what is to be considered approved training has been delegated to the State Employment Security Agencies. The determination will be made in accordance with regulations to be published by the Department of Labor. For the purposes of this Act, any on-the-job training or classroom training as defined in sections 95.33(d) (1) and (2) of the CETA regulations are to be considered as approved by the Secretary of Labor. Accordingly, FSB claimants enrolled in CETA sponsored training may not be denied FSB benefits under provisions of State law.

(b) Appropriate Training

The term "training" for purposes of this Act includes regular classroom or on-the-job training. It does not include participation in funded public service employment or work experience projects. The guidelines with respect to determining what training is appropriate for trainees are:

(1) The training program is available without cost of fees or tuition to the claimant.

(2) The training is provided at a facility located in an area within reasonable commuting distance of the claimant's residence.

(3) The training course will provide the FSB claimant with additional occupational skills and knowledge, or upgrade or broaden existing skills, relevant to employment opportunities which may reasonably be expected to be or to become available in the area in which the claimant resides.

10. Action Required. Actions necessary to implement the requirements and target dates:

a. November 1, 1975: Completion by the SESA of the analysis of current and anticipated FSB workloads.

b. November 1, 1975: Initiation of contact by ES (with UI participation as necessary) with prime sponsors to discuss coordination of activities, e.g., exchange of required information, development of a cooperative agreement, etc.

c. November 1, 1975: Plan for orderly call-in and interview of FSB claimants to avoid overloading either UI or ES offices and initiate claimant processing.

d. November 1, 1975: Preparation and conduct of the necessary training of the designated staff (ES and UI).

e. November 15, 1975: Completion of the cooperative agreement with CETA prime sponsor.

f. February 15, 1976: Complete the processing of claimants currently filing for FSB.

Any modification of the above target dates should be arranged with the appropriate regional offices.

11. Inquiries. Questions with respect to this GAL should be directed to the Regional Office.

12. Attachment. Sample Application Format.

Attachment to GAL 9-75

SAMPLE APPLICATION FORMAT

_____ Employment Security Agency

I hereby apply for and agree to participate in an appropriate training program to broaden or upgrade my occupational skill if the above agency determines:

1. There is need for my taking such training.

2. The training is available within a reasonable distance from my residence, and,

3. The training does not require payment of tuition or fees.

I understand that the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (P.L. 94-45) requires, as a condition for receiving these emergency benefits, that I apply for and participate in appropriate training whenever the agency determines my job skills need broadening or upgrading.

Name _____

Address _____

SS No. _____

Date _____

U.S. DEPARTMENT OF LABOR
Manpower Administration
Washington, D.C. 20213

CLASSIFICATION	
CORRESPONDENCE SYMBOL	MDCP
DATE	October 15, 1975

DIRECTIVE: FIELD MEMORANDUM NO. 354-75

TO : ALL ASSISTANT REGIONAL DIRECTORS FOR MANPOWER

FROM : FLOYD E. EDWARDS
Associate Manpower Administrator
Office of Field Direction and Management

SUBJECT : Referrals to CETA of Federal Supplemental Benefits (FSB) Claimants

1. Purpose. To prescribe specific and detailed procedures for both SESAs and CETA prime sponsors to insure total coordination in providing the maximum services available to FSB claimants.

2. References. a. P. L. 94-45, The Emergency Compensation and Special Unemployment Assistance Extension Act of 1975.

b. GAL 9-75.

c. RAL 3-75 (to be revised).

d. FL 11-75.

3. Objectives. The Manpower Administration is strongly concerned that the new provision of P. L. 94-45 be implemented effectively and that a total manpower effort at the State and local level be involved in this process. The FSB claimant has, in most cases, been unemployed for a long period of time and every effort must be made to assist him/her in obtaining permanent unsubsidized employment. This means that SESAs must take immediate steps to insure that FSB claimants are interviewed to determine their eligibility and availability for work and training, insuring that they are exposed to every potential training opportunity and that refusals to accept training are acted upon as required by P. L. 94-45.

4. Background.

a. Public Law 94-45, enacted on June 30, 1975, entitled the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 amends the Emergency Unemployment Compensation Act of 1974. Section 103 of the new act provides:

"Section 102 of the Emergency Unemployment Compensation Act of 1974 is amended by adding at the end thereof the following new subsection:

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"(g) Notwithstanding the preceding provisions of this section, emergency compensation shall not be payable for any week to an individual who is not a participant in a training program which is approved by the Secretary if ---

"(1) The State determines that there is a need for upgrading or broadening such individual's occupational skills and a program which is approved by the Secretary for such upgrading or broadening is available within a reasonable distance and without charge to the individual for tuition or fees, and

"(2) such individual is not an applicant to participate in such a program."

b. The FSB claimant is an individual who has generally exhausted regular unemployment insurance benefits (26 weeks), and extended benefits (13 weeks), for a total of 39 weeks of benefits, and has entered the FSB program which provides an additional 13 or 26 weeks of benefits.

As of September 27, 1975, there were 958,700 FSB claimants and it is expected that there will be an additional 400,000 new FSB claimants by the end of FY 1976. Although FSB claimants are located in all States, 70 percent are located in the following ten States:

Michigan	10.7%	California	9.5%	Georgia	3.0%
Massachusetts	10.7%	Pennsylvania	5.1%	Washington	2.7%
New Jersey	10.2%	Florida	3.9%	Ohio	2.5%
New York	11.2%				

c. CETA Title I assurances and section 95.32(g) of the regulations require CETA sponsors to serve those most in need of manpower services. Section 96.28 requires that special consideration in enrolling individuals under Title II be given to unemployed persons who are the most severely disadvantaged in terms of length of time they have been unemployed and their prospects for finding employment without assistance under Title II. Under Title VI, section 99.36(b) requires eligible applicants to give preferred consideration to unemployed persons who have been unemployed for 15 or more weeks. Having received unemployment insurance payments for over 39 weeks, FSB claimants fall within the above categories, and already warrant consideration beyond that which is provided to other unemployed applicants. As a member of a group of long term unemployed, FSB claimants in a prime sponsor's area may constitute a significant segment of the unemployed workforce. (See section 94.4(yy)). While it is recognized that prime sponsors, as part of their responsibilities under the above mandates, are already serving individuals who are collecting unemployment insurance, including FSB claimants, an even larger effort on the part of the prime sponsors is now necessary.

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5. Policy. The Manpower Administration has interpreted the above provision to require the State agencies to interview each FSB claimant and examine the claimant's prospects for obtaining employment in the labor market area and to refer those individuals who are determined to be in need of training to CETA prime sponsors and to other available training approved by the Secretary of Labor. Those refusing to apply for or participate in the recommended training which is available and approved by the Secretary will have their benefits discontinued.

6. Responsibilities of SESAs. Actions to be undertaken by the unemployment insurance and employment service include the following:

a. Unemployment Insurance Related Activities:

(1) Interview all FSB claimants.

(2) Conduct initial assessment of claimant's need for training.

(3) Take application for training (form establishing claimant's availability for training).

(4) Refer claimants to the employment service for counseling and referral activity.

(5) Make final determinations of claimant's rights to receive FSB payments based upon acceptance or refusal of appropriate training.

b. Employment Service Related Activities:

(1) Develop cooperative agreement with local CETA prime sponsor detailing number and type of training opportunities to be made available to FSB claimants, in addition to other manpower-related opportunities.

(2) Interview FSB claimants and make final determination, regarding need for training and specific type of training, providing counseling and testing as needed.

(3) Refer claimants to available CETA or other training opportunities.

(4) Obtain information from prime sponsor or other providers of training regarding claimants' acceptance or refusal of training. Also obtain information concerning other CETA opportunities which may be offered or provided.

(5) Report results of referral activity of FSB claimants to the unemployment insurance service.

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7. Responsibilities of CETA Prime Sponsors.

a. In order that FSB claimants can be assured of continued benefits, the claimants will have to make application for and enroll in appropriate training opportunities. As CETA programs are expected to be the major source to which FSB claimants will be referred, a system for referral to CETA training opportunities must be established. The employment service will be responsible for making the referrals, and, therefore, will need to be aware of the level of service which the prime sponsor can be expected to provide. In order to determine this level of service, the prime sponsor is to take the following steps:

(1) Assess the incidence of FSB claimants in its area to determine the extent to which FSB claimants constitute a significant segment of the prime sponsor's unemployed population, utilizing information which will be provided by the employment service on the number of FSB claimants in the prime sponsor's area as compared to the number of total unemployed in the area, or through whatever method used by the prime sponsor in determining significant segments.

(2) Determine the number of on-the-job training and classroom training opportunities it can make available to FSB claimants in accordance with the following:

(a) the number of FSB claimants the prime sponsor should serve in accordance with the information determined in step (1);

(b) the number of FSB claimants whom the employment service estimates potentially could be referred for training consideration during the balance of the fiscal year.

(c) the number of on-the-job training and classroom training opportunities which the prime sponsor expects will be available for the balance of FY '76 based on the following considerations:

i. projected turnover of training slots which are already filled and those training slots which will become available according to the Comprehensive Manpower Plan for FY '76.

ii. the fact that payment of allowances generally will be minimal or nothing since the basic allowance is reduced on a weekly basis by the amount of FSB payments received by participants. The employment service generally will not refer FSB claimants for a CETA training opportunity if the FSB payments will run out prior to the end of the training opportunity, unless the prime sponsor agrees to pick up the basic allowance payment beyond the expiration of FSB payments.

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iii. the prime sponsor should look at plan versus actual in other activity areas to determine whether any funds currently planned for work experience, public service employment, and manpower services should be reprogrammed for on-the-job training and classroom training programs to serve FSB claimant.

iv. Identify, to the extent possible, the specific kinds of on-the-job training and classroom training opportunities which are and will be available; and identify other information such as the expected dates when the training will become available and the location of the training.

b. After the above identifications and assessments are made, the prime sponsor and the employment service are to begin developing a written cooperative agreement, which will include the following information:

(1) The number of FSB claimants in the prime sponsor's area in relation to the total number of unemployed in the area.

(2) The number of FSB claimants which the employment service estimates potentially could be referred for training consideration.

(3) The number of FSB claimants to whom the prime sponsor expects it can provide training opportunities, and an explanation of how this number was derived, including information on projected turnover, funds planned for on-the-job training and classroom training, and, if appropriate, reprogramming of funds planned for non-training activities.

(4) Information regarding the specific kinds of training which can be provided for FSB claimants, dates when the training will become available, location of the training, etc.

(5) The system by which the prime sponsor can provide the employment service information, on a continuing and timely basis, regarding available training slots so that the employment service can refer FSB claimants for application. The procedures for transmittal of this information and the timeliness and degree of information deemed essential are to be mutually agreed upon between the prime sponsor and the employment service. The frequency and method for communicating the information should be specified in the agreement.

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(6) The procedure by which the employment service will make the referrals to prime sponsors, including a method to insure that an opportunity is available prior to referral. In areas having a heavy FSB workload, a referral schedule may be appropiate.

(7) Determination of whether the prime sponsor will agree to pick up the full basic allowance payments to any individuals whose FSB payments are exhausted prior to the termination of the training opportunity.

(8) The number and types of other opportunities (i.e., public service employment and work experience positions) which the prime sponsor expects it can provide to FSB claimants, and as much other information regarding these opportunities as possible.

(9) The system by which the employment service can obtain from the prime sponsor information regarding the outcomes of FSB claimant referrals. These outcomes are listed below:

(a) The prime sponsor offers the FSB claimant the training opportunity to which the claimant was referred. The claimant accepts the offer and is enrolled into CETA.

(b) The prime sponsor offers the FSB claimant the training opportunity to which the claimant was referred. The claimant rejects the offer.

(c) The training opportunity to which the FSB claimant was referred has been filled by another applicant or the prime sponsor assesses the FSB claimant and determines that the training opportunity to which the claimant was referred is inappropriate. The prime sponsor offers the FSB claimant a different training opportunity and the FSB claimant accepts the offer and is enrolled into CETA.

(d) For either of the same two reasons mentioned above, the prime sponsor offers the FSB claimant a different training opportunity and the FSB claimant rejects the offer.

(e) The FSB claimant is enrolled into training and subsequently drops out.

(f) The FSB claimant is enrolled into training and in accordance with current CETA procedures, the prime sponsor determines that the FSB claimant is not maintaining a satisfactory record of attendance and participation.

(g) The training opportunity to which the FSB claimant was referred has been filled by another applicant or the prime sponsor assesses the FSB claimant and determines that the training opportunity to which the claimant was referred is inappropriate. The prime sponsor thereafter offers the FSB claimant a non-training opportunity (i.e.,

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work experience or public service employment) and the FSB claimant accepts the offer and is enrolled into CETA.

(h) For either of the same two reasons mentioned above, the prime sponsor offers the FSB claimant a non-training opportunity (work experience or public service employment) and the FSB claimant rejects the offer.

(i) For either of the same two reasons mentioned above, the prime sponsor does not offer a different training opportunity or a non-training opportunity.

NOTE: In any instance where the FSB claimant refuses an offer of any opportunity (training or non-training), the employment service will need to obtain the reasons for such refusal.

c. Once this cooperative agreement is developed, the following steps should be implemented.

(1) If the prime sponsor determined under section 4 a.(1) of this Field Memorandum that the FSB claimants constitute a significant segment of its population, the prime sponsor is to take the following steps:

(a) submit a copy of the cooperative agreement to the ARDM.

(b) inform the ARDM in writing that a modification to the Comprehensive Manpower Plan will be made and indicate the types of modification that will be made (i.e., narrative, minor, major)

NOTE: In all of these cases a major or minor modification must be made to include the conditions of the cooperative agreement into the narrative description of the grant and to reflect the identification of the FSB significant segment. In some cases the modification also will have to include a shift in program activities, if, for example, work experience funds are going to be reprogrammed for classroom training or on-the-job training.

(2) If FSB claimants do not constitute a significant segment of a prime sponsor's unemployed workforce, a modification to the Comprehensive Manpower Plan will not be necessary. However, the prime sponsor still will be required to develop the cooperative agreement with the employment service. The prime sponsor must inform the ARDM in writing that it will not be modifying its plan, and at the same time, submit a copy of the cooperative agreement.

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8. Definitions

a. Approved Training. The determination as to what is to be considered approved training has been delegated to the SESA to be made in accordance with regulations to be published shortly by the Secretary of Labor. For the purpose of the cooperative agreement, any on-the-job training or classroom training as defined in sections 95.33(d)(1) and (2) of the CETA regulations is to be considered as approved by the Secretary of Labor. Accordingly, FSB claimants enrolled in CETA-sponsored training may not be denied FSB benefits under provisions of State law.

b. Appropriate Training. The term "training" for purposes of this Act includes regular classroom or on-the-job training. It does not include participation in funded public service employment or work experience projects. The guidelines with respect to determining what training is appropriate for trainees are:

(1) The training program is available without cost of fees or tuition to the claimant.

(2) The training is provided at a facility located in an area within reasonable commuting distance of the claimant's residence.

(3) The training course will provide the FSB claimant with additional occupational skills and knowledge, or upgrade or broaden existing skills, relevant to employment opportunities which may reasonably be expected to be or to become available in the area in which the claimant resides.

9. Timetable. The following implementation timetable must be communicated to prime sponsors for required action:

a. October 22, 1975: Federal Representative commence working with prime sponsors in preparation of the cooperative agreement negotiations.

b. November 1, 1975: Initiation of contact by employment service with prime sponsors to discuss coordination of activities, e.g., exchange of required information, development of a cooperative agreement, etc.

c. November 1, 1975: Start of orderly call-in and interview by SESAs of FSB claimants.

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d. November 15, 1975: Submission by prime sponsor of cooperative agreement and letter informing the ARDM whether the Comprehensive Manpower Plan will be modified and the type of modification.

e. December 15, 1975: Submission by the prime sponsor of the modification to the narrative description to incorporate the cooperative agreement, to the Program Planning Summary to reflect the FSB claimant as a significant segment, and any other appropriate major or minor modification.

f. February 15, 1976: Completion by the SESA of the processing of claimants currently filing for FSB.

10. Action Required. ARDMs should take an active part in the implementation of the FSB claimant referral program in their area, and facilitate negotiations of the cooperative agreement among all parties, as follows:

a. Immediately inform prime sponsors of their responsibilities as outlined in this Field Memorandum.

b. Inform prime sponsors of their responsibility to meet the timetable outlined in item 9 of this Field Memorandum.

c. Insure that prime sponsors, appropriate local employment security offices and SESAs are in contact and developing the cooperative agreement within the completion dates indicated on the timetable.

d. Insure that Federal Representatives maintain constant contact with prime sponsors, appropriate local employment service offices, and appropriate SESAs prior to and during negotiation of the cooperative agreement, in order to insure that the prime sponsor is providing the maximum support possible within its current resources in terms of serving FSB claimants.

e. Review the cooperative agreement to insure that each prime sponsor is taking appropriate action in accordance with the FSB workload and economic situation in its area.

11. Inquiries. CETA questions concerning this Field Memorandum should be directed to Paul Mayrand on (202) 376-7247; inquiries regarding SESA responsibilities should be directed to Gene Biglin for unemployment insurance on (202) 376-7367 or Tony Fantasi for employment services on (202) 376-6525.

[FR Doc.75-28280 Filed 10-21-75;8:45 am]

federal register

WEDNESDAY, OCTOBER 22, 1975



PART VII:

PRIVACY ACT OF 1974

■

VARIOUS AGENCIES

UNITED STATES INTERNATIONAL TRADE COMMISSION

NOTICE OF PROPOSED SYSTEM OF RECORDS PURSUANT TO THE PRIVACY ACT OF 1974, 5 U.S.C. 552a.

Notice is hereby given that the United States International Trade Commission in accordance with 5 U.S.C. 551a(e)(4) and (11), Section 3 of the Privacy Act of 1974 (Public Law 93-579), proposes to establish a new system of records on identifiable individuals. The U.S.I.T.C. published on September 9, 1975, in the Federal Register (40 F.R. 41981-41983) notice of three systems of records which it maintains on individuals:

I. Employment and Financial Disclosure Records;
II. Budgetary and Payroll-related Records; and
III. Time and Attendance Records. Notice of adoption of the proposed systems notices was published in the Federal Register (40 F.R. 47978) on October 10, 1975.

All other systems of records on identifiable individuals maintained by the U.S.I.T.C. are covered by the notices for government-wide systems of records published by the Civil Service Commission on August 27, 1975.

The requisite notice for the proposed U.S.I.T.C. systems is set forth below:

U.S.I.T.C.—IV

System name: Position and Personnel Roster—U.S.I.T.C.

System location: 1. For all employees of the United States International Trade Commission, position and personnel roster records are located at: the offices of the Commissioners, the office of the Executive Director, the office of the Personnel Security Officer, the office of Financial Management.

2. For administrative officers of the United States International Trade Commission with supervisory responsibility for personnel actions, the roster will cover only the employees subordinate to the respective officer and will be located only in the office of such officer.

Categories of individuals covered by the system: All current employees of the U.S.I.T.C.

Categories of records in the system: This system of records contains an employee's (1) name; (2) organization title and position classification title; (3) grade and step; (4) classification series; (5) type of appointment; (6) schedule or pay plan; (7) temporary, part-time or intermittent status; (8) years in grade; (9) years in agency; (10) years in Government; (11) service computation date; (12) birth date; (13) permanent or probationary status.

Authority for maintenance of the system: 5 U.S.C. 301 and 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Except for disclosures to the Commissioners and employees of the Commission in connection with the performance of their official duties for the Agency, there are no routine uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: These records are maintained on sheets of paper in file cabinets.

Retrievability: These records are indexed by the organization title and position classification title of the employee.

Safeguards: These records are maintained in lockable metal file cabinets.

Retention and disposal: These records are maintained for one year.

System manager(s) and address: Director, Office of Personnel and Management Systems, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

Notification procedure: Director, Office of Personnel and Management Systems (same address as above).

Record access procedures: Director, Office of Personnel and Management Systems (same address as above).

Contesting record procedures: Director, Office of Personnel and Management Systems (same address as above).

Record source categories: Information is obtained from employee's applications (SF-171) and subsequent Notification of Personnel Actions (SF-50).

PUBLIC COMMENT ON "ROUTINE USE": Written comments concerning the "routine use" section of the above U.S.I.T.C. system of records notice are invited from interested persons pursuant to 5 U.S.C. 552a(e)(11). Comments may be presented in writing to the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436. All comments received not later than November 21, 1975, will be considered.

By order of the Commission.
October 17, 1975.

KENNETH R. MASON,
Secretary.

[FR Doc.75-26403 Filed 10-21-75;8:45 am]

TENNESSEE VALLEY AUTHORITY

PRIVACY ACT OF 1974

Notice of Systems of Records

On August 27, 1975, the Tennessee Valley Authority published in the FEDERAL REGISTER (40 FR 38685) a Notice of Systems of Records in accordance with 5 U.S.C. 552a(e)(4) and (11), section 3 of the Privacy Act of 1974 (P.L. 93-579). Inadvertently omitted from that Notice was publication of a notice for TVA's electric load metering survey, which notice is set forth below. In addition, a correction to the routine use section of TVA payroll records is proposed to be made to comport with the requirements of 5 U.S.C. 5517 dealing with the reporting of tax information to state and local governments. Such information is now and has been for a number of years reported to state and local authorities, but that use was inadvertently overlooked in preparing the original notice.

Public comment on the routine uses set forth below is invited. Comments should be addressed to Privacy Act Coordinator, Division of Personnel, Tennessee Valley Authority, Knoxville, Tennessee 37902. All comments received on or before November 5, 1975, will be considered prior to the final adoption of this notice.

Dated: October 8, 1975.

Lynn Seeber
General Manager.

In FR Doc. 75-22258 appearing at pages 38685-38698 in the FEDERAL REGISTER of Wednesday 27, 1975, the following additions and revisions are proposed to be made:

On page 38698 TVA proposes to adopt the following notice of a system of records which follows systems TVA—28:

TVA—29

System location: Division of Power Marketing, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

Categories of individuals covered by the system: Individuals residing in households which are participating in an electric load metering survey program.

Categories of records in the system: Information relating to individual's income, work, home, and family size, which may be relevant to the household's use of electricity.

Authority for maintenance of the system: Tennessee Valley Authority Act of 1933, 16 U.S.C. 831-831dd.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To the distributor assisting TVA in the survey to enable employees of the distributor to help TVA with the survey program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in file folders, magnetic tape, and discs.

Retrievability: Records are indexed by an ID number assigned to each household.

Safeguards: Access to and use of these records are limited to those persons whose official duties require such access. All filing systems are locked when unattended.

Retention and disposal: Survey information will be retained until completion of the program and then be destroyed.

System manager(s) and address: Director, Division of Power Marketing, Tennessee Valley Authority, Chattanooga, Tennessee 37401.

Notification procedure: Individuals about whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the system manager named above. Requests should include the individual's full name and address.

Record access procedures: Requests for access may be directed to the system manager named above.

Contesting record procedures: Individuals desiring to contest or amend information about them maintained in this system should direct their request to the system manager named above.

Record source categories: The information in this system is solicited from the individual to whom the record pertains by employees of the distributor assisting TVA in the survey.

2. On page 38691, the first routine use in the routine use paragraph of system TVA—11 (Payroll records—TVA) which presently reads "To report earnings to the Social Security Administration and the Internal Revenue Service" is proposed to be revised to read as follows: to report earnings and other required information to federal, state, and local taxing authorities as required by law.

[FR Doc.75-27830 Filed 10-10-75-3:39 pm]

FEDERAL COMMUNICATIONS COMMISSION

(Docket No. 20605; FCC 75-1092)

Notice of Systems of Records

7Correction ich the records are collected and maintained, or for related personnel management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

C. For litigation in a Federal court where required.

D. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

E. To request information from a Federal, state or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information if necessary to obtain relevant information to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or other benefit.

F. To provide information or disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on that matter.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual files in folders, cards, magnetic tapes, and loose leaf binders.

Retrievability: Records are indexed by name.

Safeguards: Records are maintained in filing cabinets in an office that is locked when not occupied by staff, records are available only to authorized personnel whose duties require access.

Retention and disposal: Records are maintained for varying periods of time from one year to permanently. Disposal is by shredding.

System manager(s) and address: Office of Executive Director, 1919 M Street, NW., Washington, D.C. 20554.

Notification procedure: Same as above. It is necessary to furnish the following information in order to identify the individual whose records are requested:

A. Full name
B. Date of birth
C. Social Security Number
D. Mailing address to which the reply should be mailed.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Information is provided by management officials and by the individual on whom the record is maintained.