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PART I

HIGHLIGHTS OF THIS ISSUE

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

NOTICE

A Preliminary System Plan relating to essential rail service in the Midwest and Northeast region of the United States, formulated by the U.S. Railway Association pursuant to section 207 of Pub. L. 93–236, has been filed today and is available for public inspection in the Office of the Federal Register. The preliminary plan will be published in the FEDERAL REGISTER on Tuesday, March 4, 1975.

PRESIDENTIAL PROCLAMATION—Red Cross Month, 1975 8163

LOCAL RENT CONTROL—HUD issues interim rule for FHA projects; effective 2–26–75 8189

AIRCRAFT NOISE—DOT/FAA publishes EPA proposed noise retrofit and fleet noise level requirement (3 documents); comments by 4–4 and 4–25–75; hearing 3–18 and 19, 4–17 and 4–18–75 ..... 8218, 8222, 8243

UNEMPLOYMENT BENEFITS—Labor announces availability of extended and supplemental benefits in certain States 8265

NUTRITION LABELING—HEW/FDA proposes to require nutrition information on labeling of fresh fruits and vegetables; comments by 4–28–75 8214

SCHOOL PROGRAMS AND PROJECTS—HEW/OE issues regulations and guidelines for grants; effective 4–14–75 8176

PART II:

EFFLUENT LIMITATIONS AND GUIDELINES—EPA proposes standards for paint and printing ink formulating point source categories (2 documents); comments by 3–28–75 ..... 8302, 8307

PART III:

ELDERLY AND HANDICAPPED—DOT/UMTA proposes regulations relating to transportation services; comments by 4–30–75 8313

(Continued inside)

February 26, 1975—Pages 8163–8319

FRANCHISORS—FTC conducts public investigation of food franchisees purchase restrictions 8257

CANNED FOOD—USDA/AMS proposes standards for dried beans, and pork and beans (2 documents); comments by 4–15–75 8207

FREEDOM OF INFORMATION—
DOD regulates availability of records; effective 2–19–75 8190
Equal Employment Opportunity Commission regulates availability of records; effective 2–19–75 8171
Federal Labor Relations Council and Federal Service Impasses Panel regulates availability of records; effective 2–19–75 8165
GSA regulates availability of records; effective 2–19–75 .. 8200

MEETINGS—
Commerce/SESA: Census Advisory Committee on Population Statistics, 2–28–75 8241
DOD: Advisory Committee to the Defense Science Task Force on Naval Surface Warfare, 3–24 and 3–25–75 .. 8234
Defense Science Board Task Force on "Training Technology", 3–17–75 8234
EPA: National Air Pollution Manpower Development Advisory Committee, 3–14 and 3–15–75 8246
HEW: National Council on Educational Research, 3–7–75 8242
National Professional Standards Review Council, 3–31–75 8243
CDC: Coal Mine Health Research Advisory Committee, 3–20–75 8241
Interior: Committee on Energy Conservation, 3–13–75 .. 8236
FWS: Waterfowl Advisory Committee, 3–16–75 8235
Labor/Manpower: Federal Committee on Apprenticeship, 3–13 and 3–14–75 8265
OSHA: Standards Advisory Committee on Hazardous Materials Labeling, 3–18 and 3–19–75 8265
National Foundation on the Arts and the Humanities:
Expansion Arts Advisory Panel, 3–13, 3–14, and 3–15–75 8258
Federal-State Partnership Advisory Panel, 3–13, 3–14, and 3–15–75 8258
Visual Arts Advisory Panel, 3–14, 3–17, 3–19, 3–22, 3–23, and 4–1–75 8258
USDA: Committee of Nine, 4–16 and 4–17–75 8237
Expert Panel on Nitrites and Nitrosamines, 3–28–75 .. 8238
FS: Rock Creek Advisory Committee, 3–18–75 8237

RESCHEDULED MEETINGS—
National Foundation on the Arts and the Humanities: Public Media Advisory Panel, 3–3–75 8258

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contents

THE PRESIDENT

Proclamation

Red Cross Month, 1975 8163

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE

Rules

Limitation of handling and shipments:
- Filberts grown in Oreg. and Wash 8167

Proposed Rules

Grade, size and maturity standards:
- Beans (dried, canned) 8207
- Beans (pork, canned) 8209

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Notices

Committee renewal:
- Peanut Advisory Committee, National 8236

Environmental statements:
- Rice Act, proposed 8237

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Cooperative State Research Service; Farmers Home Administration; Forest Service.

Notices

Meetings:
- Committee of Nine 8237
- Nitrites and Nitrosamines, expert panel on 8238

CIVIL AERONAUTICS BOARD

Notices

Hearings, etc.:
- AeroPeru 8244
- Air New England, Inc 8246
- Animals, live, acceptance and carriage 8244
- International Air Transport Association 8246
- Mail rates; Transatlantic, Transpacific and Latin American 8246
- Pan American World Airways, Inc 8245

COAST GUARD

Rules

Drawbridge operations:
- Florida 8175
- Oregon 8175

Lifesaving appliances; unmanned platforms 8175

Security zones; New York 8175

COMMERCE DEPARTMENT

See Domestic and International Business Administration; Maritime Administration; National Oceanic and Atmospheric Administration; Social and Economic Statistics Administration.

DEFENSE DEPARTMENT

Rules

Freedom of information:
- Procedures and costs 8190

Notices

Meetings:
- Science Board Task Force on "Naval Surface Warfare" 8234
- Science Board Task Force on "Training Technology" 8234

DISEASE CONTROL CENTER

Notices

Meetings:
- Coal Mine Research Advisory Committee 8241

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Rules

Export Administration regulations:
- Distribution and export licenses 8199

EDUCATION OFFICE

Rules

Supplementary educational centers and services; special programs and projects funding 8176

ENVIRONMENTAL PROTECTION AGENCY

Proposed Rules

Air quality implementation plans:
- Indiana 8225
- Kansas 8225
- Massachusetts 8228

Water pollution, effluent guidelines for certain point source categories:
- Ink printing 8307
- Paint 8302

Notices

Meeting:
- Air Pollution Manpower Development Advisory Committee, National 8246

Water pollution:
- Categories of sources list; addition 8246

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Rules

Freedom of information; procedures and costs 8171

FARMERS HOME ADMINISTRATION

Proposed Rules

Unsatisfactory performance of applicants, grantees and borrowers 8212

Notices

Disaster areas:
- Iowa 8237
- Texas 8237

FEDERAL AVIATION ADMINISTRATION

Rules

Airworthiness directives:
- Boeing 8168
- Fairchild Hiller 8168
- Lockheed 8168

Proposed Rules

Airworthiness directives:
- Cessna 8217

Noise:
- Fleet noise levels; initial and annual reporting 8222
- Turbojet airplanes, standards 8218

Transition areas 8217

Notices

Noise retrofit requirements 8243

FEDERAL COMMUNICATIONS COMMISSION

Rules

Cable television services:
- Schedule revision 8186

Proposed Rules

Accounts, uniform system; class A and B telephone companies, extension of time 8230

Coast Station, Class II, public; availability of assignment at Guam 8233

FM broadcast stations, table of assignments:
- Tennessee 8230

Radio broadcast services:
- Class D stations; extension of comment period 8230

Television table of assignments:
- California 8231
- Washington 8232

Notices

Broadcast annual fees; procedure for payment 8246

Hearings, etc.:
- Pulley, Melvin (2 documents) 8246, 8247

Overseas communications facilities; policy inquiry for future licensing 8249

FEDERAL ENERGY ADMINISTRATION

Proposed Rules

Mandatory petroleum allocation:
- Crude oil allocation program; Canadian plant condensate 8228

Notices

International energy program; proposed agreement 8264

FEDERAL HOME LOAN BANK BOARD

Notices

Applications, etc.:
- Great Western Financial Corp 8250

FEDERAL LABOR RELATIONS COUNCIL AND FEDERAL SERVICE IMPASSES PANEL

Rules

Freedom of information; procedures and costs 8165

FEDERAL MEDIATION AND CONCILIATION SERVICE

Rules

Freedom of information; procedures and costs 8169

FEDERAL POWER COMMISSION
Notices
Hearings, etc.:
Arkansas Louisiana Gas Co. (2 documents) 8250, 8251
Boston Edison Co 8252
Columbia Gas Transmission Corp. (2 documents) 8252
Consolidated Gas Supply Corp 8253
El Paso Natural Gas Co. (2 documents) 8254
KWB Oil Property Management Inc 8256
Northern Natural Gas Co. (2 documents) 8255
United Gas Pipeline Co 8256

FEDERAL RESERVE SYSTEM
Notices
Applications, etc.:
Ameribanc, Inc 8256
Wyoming Bancorporation 8257

FEDERAL TRADE COMMISSION
Notices
Franchisors; public investigation 8257

FISCAL SERVICE
Notices
Public Debt Bureau; closing of office 8234

FISH AND WILDLIFE SERVICE
Notices
Meetings:
Waterfowl Advisory Committee 8235

FOOD AND DRUG ADMINISTRATION
Proposed Rules
Food labeling:
Fruits and vegetables, fresh 8214
Notices
Food additives, petitions filed or withdrawn:
E. I. Dupont De Nemours & Co., Inc. 8242
Human drugs; drug efficacy study implementation:
Estrogens 8242

FOREST SERVICE
Notices
Meetings:
Rock Creek Advisory Committee 8237

GENERAL SERVICES ADMINISTRATION
Rules
Freedom of information:
Access procedures 8200

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
See also Center for Disease Control; Education Office; Food and Drug Administration; National Institutes of Health.
Notices
Meetings:
National Professional Standards Review Council 8243

HEARINGS AND APPEALS OFFICE
Notices
Applications, etc.:
Bell Co 8235
Island Creek Coal Co 8235
Youghiogheny and Ohio Coal Co. 8236

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Rules
Low rent public housing; cost limits:
Nevada 8189
Tennessee 8189
Rent control:
Jurisdiction of local boards over agency projects 8189

INDIAN AFFAIRS BUREAU
Notices
Environmental statements:
Crow reservation; coal development (2 documents) 8234

INTERIOR DEPARTMENT
See also Fish and Wildlife Service; Indian Affairs Bureau; Hearing and Appeals Office; Land Management Bureau; Occupational Safety and Health Administration.
Notices
Meetings:
Energy Conservation Committee 8236

INTERSTATE COMMERCE COMMISSION
Notices
Hearing assignments (2 documents) 8267, 8268
Motor carriers:
Alternate route deviation notices (2 documents) 8266, 8267
Applications and certain other proceedings 8267
Irregular route property carriers; gateway elimination 8268
Transfer proceedings 8266
Special or chartered party service:
Extension of time for filing statements 8268

LABOR DEPARTMENT
See also Manpower Administration; Occupational Safety and Health Administration.
Notices
Unemployment compensation:
Availability in certain states 8265

LAND MANAGEMENT BUREAU
Notices
Applications, etc.:
Montana 8234
New Mexico (2 documents) 8235

MANAGEMENT AND BUDGET OFFICE
Notices
Clearance of reports; list of requests (2 documents) 8262

MANPOWER ADMINISTRATION
Notices
Meeting:
Apprenticeship Federal Committee 8265

MARITIME ADMINISTRATION
Notices
SS Santa Rosa, invitation for bids for sale 8238

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
Notices
Meetings:
Expansion Arts Advisory Panel 8258
Federal-State Partnership Advisory Panel 8258
Public Media Advisory Panel 8258
Visual Arts Advisory Panel 8258

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Rules
Motor vehicle safety standards:
Tires, nonpassenger car 8188

NATIONAL INSTITUTE OF EDUCATION
Notices
Meeting:
Educational Research National Council 8242

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Marine mammal permit applications:
Aquarium Systems, Inc. et al.; withdrawal 8238
Brookfield Zoo 8238
Iceland et al 8239
Lafayette Park Zoo 8239
Morro Bay Aquarium 8240
Naval Undersea Center 8240
Ohio State U 8239
Portland Zoological Gardens 8240
San Diego Zoological Gardens 8241
Sea World Inc 8241

NUCLEAR REGULATORY COMMISSION
Notices
Applications, etc.:
Battelle Memorial Institute 8258
Cleveland Electric Illuminating Co 8261
Jersey Central Power and Light Co 8259
Portland General Electric Co 8259
Southern California Edison Co. 8259
Tennessee Valley Authority 8259
University of Missouri 8260
Washington Public Power Supply 8260

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Proposed Rules

State plans:
South Carolina 8225

Notices

Meeting:
Hazardous Materials Labeling Standards Advisory Committee 8265

PIPELINE SAFETY OFFICE

Rules

Natural gas safety standards; pipe transported by railroad; correction 8188

SECURITIES AND EXCHANGE COMMISSION

Notices

Hearings, etc.:
Charter Investment Co., Inc. 8263
National Fuel Gas Co., et al. 8263
Pennsylvania Electric Co. 8264

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION

Notices

Meetings:
Population Statistics Census Advisory Committee 8241

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration; Pipeline Safety Office; Urban Mass Transportation Administration.

TREASURY DEPARTMENT

See Fiscal Service.

URBAN MASS TRANSPORTATION ADMINISTRATION

Proposed Rules

Transportation services for elderly and handicapped 8313

list of cfr parts affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

3 CFR

PROCLAMATIONS:
4352 8163

5 CFR

2401 8165

7 CFR

982 8167

PROPOSED RULES:
52 (2 documents) 8207, 8209
1817 8212

10 CFR

PROPOSED RULES:
211 8228

14 CFR

39 (3 documents) 8168

PROPOSED RULES:
39 8217
71 8217
91 8218
121 8222
129 8222

15 CFR

373 8199
376 8199

21 CFR

PROPOSED RULES:
1 8214

24 CFR

275 (2 documents) 8189
403 8189

29 CFR

1401 8169
1610 8171

PROPOSED RULES:
1952 8225

32 CFR

286 8190

33 CFR

117 (2 documents) 8175
127 8175
144 8175

40 CFR

PROPOSED RULES:
52 (3 documents) 8225, 8228
446 8302
447 8307

41 CFR

105-60 8200

45 CFR

126 8176

47 CFR

1 8186

PROPOSED RULES:
2 8230
31 8230
73 (3 documents) 8230-8232
81 8233
83 8233
91 8230
93 8230
95 8230

49 CFR

192 8188
571 8188

PROPOSED RULES:
609 8314

CUMULATIVE LIST OF PARTS AFFECTED—FEBRUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during February.

2 CFR

200 ... 7233

3 CFR

PROCLAMATIONS:

2290 (See PLO 5475) ... 6341
3443 (Amended by Proc. 4346) ... 5127
4313 (Amended by Proc. 4345) ... 4893
4344 ... 4891
4345 ... 4893
4346 ... 5127
4347 ... 5129
4348 ... 5131
4349 ... 5739
4350 ... 5741
4351 ... 7617
4352 ... 8163

EXECUTIVE ORDERS:

August 31, 1869 (Revoked in part by PLO 5483) ... 6342
October 19, 1875 (Revoked in part by PLO 5483) ... 6342
July 2, 1910 (Revoked in part by PLO 5475) ... 6341
June 6, 1914 (Revoked in part by PLO 5478) ... 6341
July 22, 1915 (Amended by PLO 5470) ... 5754
December 27, 1919 (Revoked in part by PLO 5475) ... 6341
May 26, 1931 (Amended by PLO 5470) ... 5754
May 26, 1952 (see PLO 5487 and 5488) ... 6503
1623 (Revoked in part by PLO 5479) ... 6341
5843 (Amended by PLO 5470) ... 5754
6844 (Revoked in part by PLO 5480) ... 6342
11491 (Amended by E.O. 11838) ... 5743
11616 (See E.O. 11491) ... 5743
11636 (See E.O. 11491) ... 5743
11803 (Amended by EO 11837) ... 4895
11837 ... 4895
11838 ... 5743, 7391
11839 ... 7351
11840 ... 7353
Ch. V:
101 ... 8061

4 CFR

303 ... 5135

5 CFR

213 ... 5493, 5747, 6475, 7081, 7433, 7434, 8061
294 ... 8061
Ch III ... 7346
550 ... 7434
735 ... 7435
870 ... 5747
1001 ... 5347
1303 ... 7346
2401 ... 8165

PROPOSED RULES:

302 ... 7465
330 ... 7465
353 ... 7465
531 ... 7465
550 ... 7465

6 CFR

701 ... 7233
702 ... 7233

7 CFR

1 ... 7341
2 ... 5135, 6313
102 ... 5347
106 ... 6475
271 ... 5747–5751
354 ... 4897
401 ... 7893
722 ... 6761
724 ... 5135, 7619
726 ... 6475
877 ... 6761
907 ... 4903, 5531, 6197, 6639, 7435
910 ... 5752, 6765, 7619
926 ... 8064
959 ... 6951
980 ... 8064
981 ... 6475
982 ... 8167
1001 ... 6313
1002 ... 6313
1004 ... 6313
1006 ... 6313
1007 ... 6313
1011 ... 6313
1012 ... 6313
1013 ... 6313
1015 ... 6313
1030 ... 6313
1032 ... 6313
1033 ... 6313
1036 ... 6313
1040 ... 6313
1044 ... 6313
1046 ... 6313
1049 ... 6313
1050 ... 6313
1060 ... 6313
1061 ... 6313
1062 ... 6313
1063 ... 6313
1064 ... 6313
1065 ... 6313
1068 ... 6313
1069 ... 6313
1070 ... 6313
1071 ... 6313
1073 ... 6313
1075 ... 6313
1076 ... 6313
1078 ... 6313
1079 ... 6313
1090 ... 6313
1094 ... 6313
1096 ... 6313
1097 ... 6313
1098 ... 6313
1099 ... 6313
1101 ... 6313
1102 ... 6313
1104 ... 6313
1106 ... 6313
1108 ... 6313
1120 ... 6313
1121 ... 6313
1124 ... 6313
1125 ... 6313

7 CFR—Continued

1126 ... 6313
1127 ... 6313
1128 ... 6313
1129 ... 6313
1130 ... 6313
1131 ... 6313
1132 ... 6313
1133 ... 6313
1134 ... 6313
1136 ... 6313
1137 ... 6313
1138 ... 6313
1139 ... 6313
1207 ... 7893
1822 ... 5531, 6951
1823 ... 6951
1843 ... 6952
1890b ... 5753
1890d ... 5753
1890e ... 5753, 6639
1890j ... 6197
1890k ... 6197
1890l ... 5753
1890n ... 5532

PROPOSED RULES:

52 ... 8207, 8209
270 ... 7455
271 ... 7455
728 ... 7099
729 ... 6211
943 ... 6505
982 ... 5163
1001 ... 5373
1002 ... 5373
1004 ... 5373
1006 ... 5373
1007 ... 5373
1011 ... 5373
1012 ... 5373
1013 ... 5373
1015 ... 5373
1030 ... 5373
1032 ... 5163, 5373
1033 ... 5373
1036 ... 5373
1040 ... 5373
1044 ... 5373
1046 ... 5373
1049 ... 5373
1050 ... 5373
1060 ... 5373
1061 ... 5373
1062 ... 5163, 5373
1063 ... 5373
1064 ... 5373
1065 ... 5373
1068 ... 5373
1069 ... 5373
1070 ... 5373
1071 ... 5373
1073 ... 5373
1075 ... 5373
1076 ... 5373
1078 ... 5373
1079 ... 5373
1090 ... 5373
1094 ... 5373
1096 ... 5373
1097 ... 5373

7 CFR—Continued

PROPOSED RULES—Continued

1098 ... 5373
1099 ... 5373
1101 ... 5373
1102 ... 5373
1104 ... 5373
1106 ... 5373
1108 ... 5373
1120 ... 5373
1121 ... 5373, 5784
1124 ... 5373
1125 ... 5373
1126 ... 5373, 5784
1127 ... 5373, 5784
1128 ... 5373, 5784
1129 ... 5373, 5784
1130 ... 5373, 5784
1131 ... 5373, 7943
1132 ... 5373
1133 ... 5373
1134 ... 5373
1136 ... 5373
1137 ... 5373
1138 ... 5373
1139 ... 5373
1207 ... 7099
1817 ... 8212
1823 ... 7454
1844 ... 4919
1867 ... 5538
1871 ... 5539

8 CFR

100 ... 4904
103 ... 7236, 7238
204 ... 6765
235 ... 5347

9 CFR

73 ... 6766
78 ... 6639
92 ... 7081
94 ... 4904
97 ... 7620
113 ... 6476
151 ... 6766
309 ... 6323

PROPOSED RULES:

11 ... 6978, 7944
50 ... 5784
51 ... 5787

10 CFR

2 ... 7893
9 ... 7893
140 ... 7081
205 ... 6767
211 ... 5139, 6197, 6767, 8228
212 ... 6200, 6323
709 ... 7320
Ruling 1975-1 ... 6768

PROPOSED RULES:

202 ... 6684
205 ... 6371
211 ... 6371, 6372
212 ... 8109
215 ... 6787
303 ... 5452
305 ... 5452
307 ... 5452

12 CFR

4 ... 7337
23 ... 6200, 7897
201 ... 4904, 6769
261 ... 7620

12 CFR—Continued

271 ... 7897
404 ... 7238
505 ... 8065
522 ... 5532
602 ... 7339
702 ... 8069
811 ... 5532

PROPOSED RULES:

225 ... 5794
541 ... 6870, 7681
545 ... 6870, 7681
611 ... 6980
613 ... 6980
614 ... 6980
615 ... 6980
616 ... 6980

13 CFR

102 ... 7898
104 ... 5139
114 ... 6640
120 ... 7622
122 ... 7622
303 ... 6640
309 ... 6476
314 ... 6769
402 ... 6201

PROPOSED RULE:

402 ... 6212

14 CFR

36 ... 6346
39 ... 5347, 5348, 5754–5756, 6202, 6347, 6640 6641, 6770, 6771, 7626, 7899, 7900, 8070, 8168
71 ... 4905, 5140, 5348, 5493, 5494, 5756, 6202, 6203, 6347, 6641, 6772, 7082, 7435 7436, 7627, 7900, 7901, 8070
73 ... 6203, 7082, 8070
95 ... 8071
97 ... 5494, 6641, 7627
103 ... 5140
121 ... 7436
250 ... 6347
288 ... 5141, 5756, 5758, 6642, 8073
310 ... 7241
385 ... 7241
389 ... 7242
399 ... 4906, 6772
401 ... 7250
1206 ... 7244

PROPOSED RULES:

25 ... 6506
39 ... 6509, 6675, 7677, 8217
45 ... 5542
71 ... 4937, 5167, 5373, 5542, 5543, 5793, 6369, 6509, 6510, 7464, 7677, 7678, 7944, 8108, 8217
73 ... 6979
91 ... 8212
103 ... 5168
121 ... 8222
129 ... 8222
135 ... 6370
207 ... 5371
208 ... 5371
212 ... 5371
214 ... 5371
372 ... 6512
373 ... 6512
378 ... 6512

15 CFR

50 ... 6324
373 ... 8199
376 ... 4907, 8199
804 ... 5003
924 ... 5349

PROPOSED RULES

9 ... 7099

16 CFR

4 ... 7251, 7628
13 ... 6325, 6476, 6477, 6480–6482, 6773, 6774, 6777, 7082, 7085–7088, 7090, 7393, 7630–7637, 8074
16 ... 7630–7635, 7637
304 ... 5495
1500 ... 6210

PROPOSED RULES:

437 ... 6375, 6688

17 CFR

211 ... 6483
230 ... 6484
231 ... 6483
239 ... 6484
240 ... 6644, 7394
241 ... 6483
251 ... 6483

PROPOSED RULES:

200 ... 4944
210 ... 7947
230 ... 8110
240 ... 5169, 7947
250 ... 5372
257 ... 5372

18 CFR

1 ... 7251
2 ... 6204
3 ... 7251
32 ... 5142
154 ... 6204
301 ... 7325
701 ... 7253

PROPOSED RULES:

35 ... 7681
301 ... 7685

19 CFR

10 ... 5146, 6646
22 ... 6952
141 ... 6647
153 ... 6647
171 ... 5146
172 ... 5146

PROPOSED RULES:

6 ... 6988

20 CFR

01 ... 6876
02 ... 6876
03 ... 6876
1 ... 6876
2 ... 6876
3 ... 6876
10 ... 6877
25 ... 6891
200 ... 7255
404 ... 5497
405 ... 5760, 7637
416 ... 7639
618 ... 5498, 8075
619 ... 5502, 8075

20 CFR—Continued

PROPOSED RULES:

404 ... 5163, 5540, 5789
405 ... 6369
609 ... 6984

21 CFR

2 ... 6488, 7403
27 ... 5762, 5772
121 ... 5350, 6325, 6326, 6489, 7404
135 ... 5147, 6952
135e ... 6326, 6490
146b ... 6490
151c ... 6490
310 ... 5351
442 ... 5355, 6778
630 ... 6778
1240 ... 5620
1250 ... 5620
1304 ... 6779
1308 ... 6779

PROPOSED RULES:

1 ... 7455, 8214
640 ... 7456
1308 ... 8108

22 CFR

6 ... 7256
212 ... 7327
701 ... 7319
702 ... 7319
703 ... 7319
704 ... 7319
705 ... 7319
706 ... 7319
730 ... 7319

23 CFR

1 ... 7647
630 ... 6491
646 ... 7647
820 ... 6347

PROPOSED RULES:

740 ... 8109

24 CFR

25 ... 7359
20 ... 6491
42 ... 7602
200 ... 6953
201 ... 5353
203 ... 6954
205 ... 6647, 6954
207 ... 6648, 6954
213 ... 6648, 6954
220 ... 6648, 6955
221 ... 6648, 6955
232 ... 4908, 5775, 6648, 6955
234 ... 6955
235 ... 6648, 6955
236 ... 6648, 6955
241 ... 6955
242 ... 6648, 6955
244 ... 6648, 6956
275 ... 8189
300 ... 6956
403 ... 8189
570 ... 5356, 5952
1914 ... 4908, 4909, 5148, 6781–6785, 7922–7924
1915 ... 5149, 5151, 6957, 6964, 7647, 7648
2205 ... 5507

PROPOSED RULES:

82 ... 7072
115 ... 7676, 7677
221 ... 6360

26 CFR

1 ... 7437

PROPOSED RULES:

1 ... 5537, 7453, 7661, 7933
54 ... 7671
178 ... 7098
601 ... 7934

27 CFR

PROPOSED RULES:

4 ... 6349, 6988
5 ... 6354, 6988

28 CFR

0 ... 6494, 7261, 8075
2 ... 5357
15 ... 4910
16 ... 6494, 7261, 7265

29 CFR

40 ... 6327
70 ... 7266
102 ... 6204, 7290
511 ... 7091
516 ... 7404
519 ... 6328
529 ... 5775
541 ... 7091
552 ... 7404
1208 ... 7281
1401 ... 8169
1610 ... 8171
1904 ... 7094
1952 ... 4910, 6335
2100 ... 6649
2300 ... 5779
2601 ... 5507

PROPOSED RULES:

5 ... 7685
522 ... 7100
1601 ... 6676
1910 ... 4930, 4932, 5792, 6515, 6986, 7686, 8108
1952 ... 6987, 7686, 8225
2520 ... 7464
2521 ... 7464
2522 ... 7464
2523 ... 7464
2603 ... 6989

30 CFR

506 ... 7291

31 CFR

1 ... 7439
128 ... 8020
223 ... 6498
235 ... 6785
500 ... 7648

PROPOSED RULES:

51 ... 5370, 7935

32 CFR

286 ... 4911, 8190
286a ... 7242, 7300
290 ... 7301
292 ... 7292
295 ... 6336
296 ... 4911
297 ... 7242
298 ... 7289
299 ... 7300
806 ... 7901
812 ... 7407
851 ... 7908
880 ... 6499
881 ... 5362

32 CFR—Continued

888e ... 7912
1206 ... 7244
1285 ... 7282
1600 ... 7298
1811 ... 6204
1900 ... 7294
2100 ... 7316
2200 ... 7303

PROPOSED RULES:

1480 ... 7682

32A CFR

VI ... 6500, 6501

33 CFR

62 ... 6338, 6971
110 ... 6339
117 ... 5147, 7095, 8175
127 ... 5147, 5508, 6205, 7095, 8175
144 ... 8175
160 ... 6653
204 ... 6502

PROPOSED RULES:

110 ... 5164
117 ... 5541
128 ... 5165
175 ... 5167
252 ... 5485
265 ... 5484
273 ... 5489

34 CFR

234 ... 6780

PROPOSED RULES:

258 ... 6304

36 CFR

299 ... 5347
404 ... 7303
405 ... 7304
602 ... 6205

PROPOSED RULES:

214 ... 6211
603 ... 4938

37 CFR

1 ... 5158, 6339
2 ... 6361

PROPOSED RULES:

1 ... 6361
2 ... 6361
4 ... 6361

38 CFR

3 ... 6971

PROPOSED RULES:

3 ... 6688

39 CFR

111 ... 6206
112 ... 6206
123 ... 6206
124 ... 6206
134 ... 6207
144 ... 6207
154 ... 6207
156 ... 6207
159 ... 6207
161 ... 6207
163 ... 6207
165 ... 6207
171 ... 6207
261 ... 7331
262 ... 7331
265 ... 7330
3001 ... 6972

40 CFR

35 5363
50 7042
51 7042
52 5508, 5523
53 7044
85 5524
180 6340, 6502, 6972
240 5159
241 5159
405 6434
406 6435
407 6436
408 6437
409 6439
411 6440
412 6440
414 6441
415 5523
417 6441
423 7095
424 8030
426 6444
427 6444
430 6445
431 6446
432 6446
1510 6282

PROPOSED RULES:

50 7064
51 7064
52 8225, 8228
53 7064
85 5169
415 7106
417 7580
424 8038
428 7109
446 8302
447 8307

41 CFR

Ch. 3 4913
4-1 6973
4-5 6976
4-16 6977
5A-1 5781
5A-5 6655
9-7 5781
9-16 5781
Ch. 9 5364
14-3 5782
Ch. 109 5364
101-26 7619
101-32 7096
101-39 6502
105-60 8200
105-61 7924, 7927
114-30 5525
114-38 5526
114-39 5525, 5526
114-40 5526
114-42 5526
114-45 5526
114-46 5527

41 CFR—Continued

114-47 5527
114-52 5527
114-60 5527

PROPOSED RULES:

50-250 6982
114-50 6667

42 CFR

37 8076
72 5620

PROPOSED RULES:

32 7460
110 6602

43 CFR

2 7304, 7449
4 5527

PUBLIC LAND ORDERS:

1744 (Removed by PLO 5468) 5753
5463 5365
5464 5753
5465 6208
5466 5753
5467 5753
5468 (Revoked PLO 1744 of October 6, 1958) 5753
5470 (Amends E.O. of July 22, 1915; E.O. of May 26, 1931, and E.O. 5843) 5754
5843 of April 28, 1932) 5754
5471 5754
5472 6208
5473 6207
5474 6340
5475 6341
5476 6208
5477 6207
5478 6341
5479 6341
5480 6342
5481 6342
5482 6342
5483 6342
5488 6503
5484 6342
5485 6343
5486 6343
5487 6503
5489 7450
5490 7450

PROPOSED RULES:

2 5783
3300 7673
4110 7453
4120 7453
4130 7453

45 CFR

102 8076
121 7411
121b 7413
121c 7414
121d 7416

45 CFR—Continued

121e 7419
121f 7419
121g 7422
121h 7422
121i 7424
121j 7428
126 8176
142 6343
177 7586
1005 7929
1701 7652

PROPOSED RULES:

144 7100, 8108
175 7100, 8108
176 7100, 8108
205 5541
220 6505
249 6368

46 CFR

34 6208
76 6209
95 6209
181 6209
193 6209
281 7430
308 7097
310 6655
503 7311, 8098
531 5528

47 CFR

0 6473, 6656, 7311, 7315, 7451, 7914
1 5365, 8186
2 6209, 6474, 6977
3 6474
5 6474
13 5366
21 4914
47
73 4915, 4916, 6209, 6449, 6474, 6977
76 6209
81 5366
83 5366, 6209
87 5366
89 5159, 5367
91 5159, 5367
93 5159, 5367
95 5367
97 5367

PROPOSED RULES:

2 7679, 8230
31 8230
42 6676
73 4939-4942, 5794, 6513, 7945, 7946, 8230-8232
76 5371
81 4942, 7680, 8233
83 8233
87 7678
89 7678
91 7678, 8230
93 7678, 8230
95 7680, 8230

49 CFR

1 ..... 5159, 6656
7 7915
192 ..... 6345, 8188
225 5368
570 5159
571 8188
582 4918
901 8100
1033 ..... 4918, 5161, 5369, 7452, 7921, 7922
1064 7097
1241 6660
1250 6660
1250 6660
1251 6661
1300 ..... 6504, 7654
1303 ..... 6504, 7655
1304 ..... 6504, 7655
1306 ..... 6504, 7656
1307 ..... 6504, 7657
1308 ..... 6504, 7658
1309 ..... 6504, 7659

49 CFR—Continued

PROPOSED RULES:

391 6510
571 ..... 4938, 5529
581 4938
609 8314
1057 6981
1100 4942
1102 5374
1104 5374

50 CFR

1d 6661
28 ..... 4917, 5530
33 ..... 5530, 5531, 6663, 7660
280 8101

PROPOSED RULES:

16 7935
18 6664
219 4930
401 6786

FEDERAL REGISTER PAGES AND DATES—FEBRUARY

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
4891–5125	Feb. 3	6313–6447	11	7081–7390	19
5127–5345	4	6449–6637	12	7391–7615	20
5347–5492	5	6639–6759	13	7617–7891	21
5493–5737	6	6761–6949	14	7893–8060	24
5739–6196	7	6951–7080	18	8061–8161	25
6197–6312	10			8163–8319	26

reminders

Rules Going Into Effect Today

There were no items eligible for inclusion.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

Canned grapefruit and orange for salad; proposed grade standards; extension of comment period; comments by 3–1–75 ..... 3217; 1–20–75

Grain standards; miscellaneous amendments; extension of comment time; comments by 3–7–75. 3217; 1–20–75

Potato research and promotion plan; proposed increase in expenses; comments by 3–7–75 ..... 7099; 2–19–75

Agricultural Stabilization and Conservation Service—

Notice of proposed determination for 1975–76 marketing year; comments by 3–12–75 ..... 6211; 2–10–75

Animal and Plant Health Inspection Service—

Viruses, serums, toxins, and analogous products; comments by 3–5–75 ..... 788; 1–3–75

Farmers Home Administration—

Rural housing loans; policies and procedures for loan guarantees; comments by 3–5–75 ..... 4919; 2–3–75

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Freedom of information; fee schedule; comments by 3–5–75 ..... 4938; 2–3–75

CIVIL SERVICE COMMISSION

Review of claim for payment of health benefits; comments by 3–3–75. 4444; 1–30–75

ENVIRONMENTAL PROTECTION AGENCY

Control of air pollution from new motor vehicle engines; proposed selective enforcement auditing procedures; comments by 3–3–75 ..... 45360; 12–31–74

Disapproval of sulfur dioxide regulation; comments by 3–3–75 ..... 4445; 1–30–75

Maryland State Implementation Plan for maintenance of air quality standards; comments by 3–3–75 ..... 4447; 1–30–75

FEDERAL COMMUNICATIONS COMMISSION

Cable television; sports programs; extension of time; comments by 3–3–75. 5371; 2–5–75

FM broadcast stations; table of assignments; comments by 2–14–75; reply comments by 3–6–75 ..... 801;1–3–75

FM broadcast stations—

Illinois; comments by 3–5–75. 2170; 1–15–75

Minnesota; comments by 3–5–75. 2713; 1–15–75

Wyoming; comments by 3–5–75. 2714; 1–15–75

Marine radar equipment; demonstration provisions; comments by 3–7–75, reply comments by 3–17–75 ..... 4943; 2–3–75

Radio call box systems; local government services; reply comments by 3–3–75 ..... 43231; 12–11–74

Removal of station identification from non-Federal aeronautical navigation aids; comments by 3–7–75. 4453; 1–30–75

FEDERAL HOME LOAN BANK BOARD

Federal Savings and Loan System—

Amend Proposal on Applications and Restrictions 4661; 1–31–75

FEDERAL MARITIME COMMISSION

Rules governing filing of increases in contract rates on less than statutory notices in the event of tariff currency depreciation, reopening; comments by 3–4–75 ..... 1280; 1–7–75

HEALTH EDUCATION AND WELFARE DEPARTMENT

Education Office—

Privacy rights of students and parents; comments by 3–7–75. 1208; 1–6–75

Food and Drug Administration—

Action level for mercury in fish and shellfish, comments by, 3–6–75. 42738; 12–6–74

Lead in evaporated milk and evaporated skim milk; proposed tolerance, comments by, 3–6–75. 42740; 12–6–74

Poisonous or deleterious substances in food, by 3–6–75 ..... 42743; 12–6–74

Office of Human Development—

Head Start Programs 4758; 1–31–75

Office of the Secretary—

Availability of Information to the public; comments by 3–3–75. 4439; 1–30–75

Social Security Administration—

Federal Health Insurance for the Aged and Disabled; comments by 3–3–75 ..... 4440; 1–30–75

Social Security Administration—

Federal old-age, survivors, and disability insurance; child's benefits; comments by 3–6–75 ..... 5164; 2–4–75

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service—

Dungeness National Wildlife Refuge; curtailment of horseback riding; comments by 3–1–75 ..... 4428; 1–30–75

Grizzly Bear; proposed "threatened" status in the conterminous 48 States; comments by 3–3–75. 6; 1–2–75

LABOR DEPARTMENT

Occupational Safety and Health Administration—

Occupational exposure; standards completion project; comments by 3–5–75 ..... 4930; 2–3–75

NUCLEAR REGULATORY COMMISSION

Radiation protection; implementation of NCRP recommendations for lower radiation exposure levels for fertile women; comments by 3–5–75. 799; 1–3–75

SECURITIES AND EXCHANGE COMMISSION

Public utility holding companies; uniform system of accounts; comments by 3–4–75 ..... 5372; 2–5–75

TRANSPORTATION DEPARTMENT

Coast Guard—

Anchorage grounds; Los Angeles and Long Beach Harbors, Calif.; comments by 3–7–75 ..... 5164; 2–4–75

Drawbridge operation regulations; Coney Island Creek, New York; comments by 3–4–75 ..... 4317; 1–29–75

Licensing and certificating of Merchant Marine personnel; comments by 3–9–75 ..... 3610; 1–23–75

Nautical school ships regulations; manning requirements; comments by 3–6–75 ..... 3311; 1–21–75

Federal Aviation Administration—

Alteration of Providence, R.I., Transition Area; comments by 3–3–75. 4444; 1–30–75

Noise abatement altitudes for turbojet airplanes; submitted to FAA by EPA; comments by 3–7–75. 1072; 1–6–75

Noise standards for small propeller airplanes; submitted to FAA by EPA; comments by 3–7–75. 1061; 1–6–75

Transition area; East Point, Ga.; comments by 3–5–75 ..... 4937; 2–3–75

Federal Aviation Administration—

Transition area at Ozark, Ark.; comments by 3–6–75 ..... 5167; 2–4–75

Hazardous Materials Regulations Board—

Hazard information system and miscellaneous proposals; comments by 3–7–75 ..... 43091; 12–10–74

Transportation of hazardous materials; matter incorporated by reference; comments by 3–4–75. 43638; 12–17–74

National Highway Traffic Safety Administration—
Motor vehicle safety and damage standards; bumper requirements; comments by 3–3–75..... 4938; 2–3–75

TREASURY DEPARTMENT

Fiscal Service—
Withholding of city income or employment taxes by Federal Agencies. 4659; 1–31–75

VETERANS ADMINISTRATION

Awards to Dependents of Disappearing Veterans; comments by 3–3–75. 4455; 1–30–75

Next Week's Public Hearings

FEDERAL MARITIME COMMISSION

Japan Lines, Ltd. et al.; to be held at Washington, D.C. on or before 3–4–75 ..... 38027; 10–25–74

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Human Development Office—
Transportation for the elderly; to be held in San Francisco, California; 3–3–75 ..... 4031; 1–27–75

INTERNATIONAL JOINT COMMISSION UNITED STATES AND CANADA

Preservation and enhancement of Niagara Falls to be held in Niagara Falls, New York on 3–4–75..... 4066; 2–3–75

Lake Erie Ice Booms; to be held in Buffalo, New York on 3–5–75..... 5570; 2–6–75

INTERNATIONAL TRADE COMMISSION

President's list of articles which may be affected by international trade negotiations; to be held at New Orleans, La.; 3–4–75..... 3517; 1–22–75

President's list of articles which may be affected by international trade negotiations; to be held at Atlanta, Ga.; 3–6–75 ..... 3517; 1–22–75

Next Week's Meetings

COMMERCE DEPARTMENT

National Bureau of Standards—
Federal Information Processing Standards Task Group 15 "Computer Systems Security"; to be held at Gaithersburg, Md. (open) 3–4 and 3–5–75 ..... 3626; 1–23–75

Federal Information Processing Standards Task Group 13; to be held in Gaithersburg, Md. (open) 3–6–75. 3327; 1–21–75

National Oceanic and Atmospheric Administration—
Marine Petroleum and Minerals Advisory Committee; to be held at Washington, D.C. (open) 3–4 and 3–5–75 ..... 3486; 1–22–75

Social and Economic Statistics Administration—
Census Advisory Committee of the Statistical Association to be held in Suitland, Md. (open) 3–6 and 3–7–75 ..... 4665; 1–31–75

CIVIL RIGHTS COMMISSION

California State Advisory Committee; to be held at Los Angeles, California (open with restrictions) 3–15–75. 7700; 2–21–75

Federal Employees Pay Council; to be held in Washington, D.C. on 3–5–75. 4482; 1–30–75

Maryland State Advisory Committee; to be held at Baltimore, Md. (open with restrictions) 3–13–75..... 7700; 2–21–75

Massachusetts State Advisory Committee; to be held at Boston, Mass. (open) 3–3–75 ..... 3633; 1–23–75

Michigan State Advisory Committee; to be held at Detroit, Mich. (open with restrictions) 3–13–75..... 7700; 2–21–75

New Jersey State Advisory Committee; to be held at Newark, N.J. (open with restrictions) 3–11–75..... 7701; 2–21–75

Ohio State Advisory Committee; to be held at Columbus, Ohio (open with restrictions) 3–15–75..... 7701; 2–21–75

Rhode Island State Advisory Committee to be held in Providence, R.I. (open) 3–4–75 ..... 5575; 2–6–75

DEFENSE DEPARTMENT

Defense Intelligence Agency Scientific Advisory Committee; to be held at Arlington, Va. (closed) 3–14–75. 7687; 2–21–75

Defense Science Board on Export of U.S. Technology: Implications to U.S. Defense; to be held at Arlington, Va. (closed) 3–13–75..... 7687; 2–21–75

Army Department—
U.S. Army Missile Command Scientific Advisory Group; to be held in Redstone Arsenal, Ala. (closed) 3–4 and 3–5–75..... 6376; 2–11–75

ENVIRONMENTAL PROTECTION AGENCY

Effluent Standards and Water Quality Information Advisory Committee, to be held at Arlington, Va. on 3–6–75. 4483; 1–31–75

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Federal Council on the Aging; to be held at Washington, D.C. (open) 3–13–75. 7698; 2–21–75

Education Office—
National Advisory Council on Education Professions Development; to be held in San Francisco, Calif. (open) 3–5 through 3–7–75. 6385; 2–11–75

National Advisory Council on Indian Education; to be held in Washington, D.C. (open and closed) 3–1 through 3–9–75.... 7120; 2–19–75

Food and Drug Administration—
Panel on review of allergenic extracts; to be held in Bethesda, Md. (open and closed) 3–7 and 3–8–75. 7113; 2–19–75

Panel on review of cold, cough, allergy, bronchodilator and antiasthmatic drugs; to be held in Rockville, Md. (open and closed) 3–5 and 3–6–75.... 7112; 2–19–75

Panel on review of general and plastic surgery devices; to be held in Washington, D.C. (open and closed) 3–7–75 ..... 7112; 2–19–75

Panel on review of hemorrhoidal drugs; to be held in Rockville, Md. (open and closed) 3–9 and 3–10–75 ..... 7113; 2–19–75

National Institutes of Health—
Contraceptive Development Contract Review Committee; to be held at Bethesda, Md. (open with restrictions); 3–7 and 3–8–75..... 2856; 1–16–75

Mammalian Mutant Cell Lines Committee; to be held at Camden, N.J. (open with restrictions), 3–5–75. 2857; 1–16–75

National Institute of Education—
National Council on Educational Research; to be held in Austin, Tex. (open with restrictions) 3–6–75. 41391; 11–27–74

NANDS Council Planning Subcommittee; to be held at Bethesda, Md. (open with restrictions), 3–6–75. 2857; 1–16–75

National Institute of General Medical Sciences—
Evaluation of Genetic Counseling Workshop; to be held in Colorado Springs, Colo. on 2–28–75 and 3–1–75 ..... 1536; 1–8–75

JUSTICE DEPARTMENT

Federal Advisory Committee on False Identification; to be held at Washington, D.C. (open) 3–13–75..... 7691; 2–21–75

LABOR DEPARTMENT

Manpower Administration—
Federal Advisory Council on Unemployment Insurance; to be held in Washington, D.C. (open) 3–5 and 3–6–75 ..... 6396; 2–11–75

Occupational Safety and Health Administration—
Standards Advisory Committee on Coke Ovens Emissions; to be held in Washington, D.C. (open) 3–4 and 3–5–75 ..... 5829; 2–7–75

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Economics; to be held in Washington, D.C. (closed) 3–7 and 3–8–75 ..... 7143; 2–19–75

Advisory Panel for Genetic Biology; to be held in Washington, D.C. (closed) 3–7 and 3–8–75..... 7143; 2–19–75

NUCLEAR REGULATORY COMMISSION

Lawrence Award Nomination-Screening Groups General Advisory Committee, Reactors Subcommittee; to be held in Livermore, Calif. (closed) 3–3–75. 41760; 12–2–74

SMALL BUSINESS ADMINISTRATION

Houston District Advisory Council; to be held in Houston, Tx. (open) 3–4–75. 6395; 2–11–75

STATE DEPARTMENT

Agency for International Development—

Advisory Committee on Voluntary Foreign Aid; to be held at Washington, D.C. (open) 3–6 and 3–7–75. 6376; 2–11–75

U.S. National Committee for the International Radio Consultative Committee, Study Group 2; to be held in Washington, D.C. (open with restrictions) 3–6–75..... 6376; 2–11–75

TRANSPORTATION DEPARTMENT

Coast Guard—

Noise Standards for Propeller Driven Small Airplanes and Noise Abatement Minimum Altitudes for Turbojet Powered Airplanes in Terminal Areas; to be held at Washington, D.C. 3–3 through 3–5–75. 4478; 1–30–75

presidential documents

Title 3—The President

PROCLAMATION 4352

Red Cross Month, 1975

By the President of the United States of America

A Proclamation

Since the first settlement on these shores, we Americans have worked together voluntarily to conquer problems and to care for one another in time of adversity. This neighbor-helping-neighbor approach is still with us today and is exemplified by an organization that has become known as the Good Neighbor—the American National Red Cross.

We can all be grateful that the Red Cross is here in time of need. When disasters occur, this Good Neighbor responds with quick and openhanded assistance to help the injured and homeless. When the need is blood, the Red Cross provides this precious fluid from volunteer donors to more than half of this nation's medical facilities. This Good Neighbor, through its first aid and water safety training programs, arms us with the knowledge and skill to save our own and the lives of others. Veterans and members of the military services, often separated far from their loved ones, also turn to the Red Cross for help in time of personal crisis.

The American Red Cross, governed both nationally and in our communities by boards made up of volunteers, is dependent upon each one of us for its existence. It is financed primarily by voluntary contributions and its services are made available largely through the work of volunteers.

Traditionally, March is Red Cross Month. During that month, more than half of the 3,100 Red Cross chapters will be asking Americans to be Good Neighbors by making contributions. In communities where the Red Cross is in partnership with United Way, these chapters will be asking us to lend our time and skills as volunteers in one of their many service programs.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, and Honorary Chairman of the American National Red Cross, do hereby designate March, 1975, as Red Cross Month.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of February, in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

Gerald R. Ford

[FR Doc.75-5207 Filed 2-24-75;2:27 pm]

rules and regulations

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

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

Title 5—Administrative Personnel

CHAPTER XIV—FEDERAL LABOR RELATIONS COUNCIL AND FEDERAL SERVICE IMPASSES PANEL

PART 2401—AVAILABILITY OF OFFICIAL INFORMATION

Freedom of Information

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended November 21, 1974 (Pub. L. 93-502), which requires each agency to establish procedures applicable to disclosure of public information, the Federal Labor Relations Council and Federal Service Impasses Panel have amended Chapter XIV of Title 5 of the Code of Federal Regulations by amending Part 2401 to read as set forth below.

This amended Part 2401 contains the Council's and Panel's rules concerning the availability of information relating to the Council or the Panel or within their custody, and establishes the procedures and costs for obtaining information.

In accordance with the November 21, 1974, Freedom of Information Act Amendments, a proposed revision of § 2401.7 of Part 2401 specifying a uniform schedule of fees to be effective February 19, 1975, was published in the FEDERAL REGISTER on January 10, 1975 (40 FR 2214), for comment. In the amended rules set forth below, the proposed § 2401.7 has been revised and redesignated as § 2401.10.

By the Federal Labor Relations Council.

ROBERT E. HAMPTON,
Chairman.

By the Federal Service Impasses Panel.

JACOB SEIDENBERG,
Chairman.

The amended Part 2401 reads as follows:

Sec.

2401.1 Purpose and scope.
2401.2 Delegation of authority.
2401.3 Information policy.
2401.4 Procedure for obtaining information.
2401.5 Identification of information requested.
2401.6 Time limits for processing requests.
2401.7 Appeal from denial of request.
2401.8 Extension of time limits.
2401.9 Effect of failure to meet time limits.
2401.10 Fees.
2401.11 Compliance with subpoenas.
2401.12 Annual report.

AUTHORITY: The provisions of this Part 2401 issued under 5 U.S.C. 552, as amended; E.O. 11491, as amended, 3 CFR 254 (1974).

§ 2401.1 Purpose and scope.

This part contains the regulations of the Federal Labor Relations Council and the Federal Service Impasses Panel providing for public access to information from the Council or the Panel. These regulations implement the Freedom of Information Act, 5 U.S.C. 552, as amended by Pub. L. 93-502, November 21, 1974, and the policy of the Council and the Panel to disseminate information on matters of interest to the public and to disclose to members of the public on request such information contained in records insofar as is compatible with the discharge of their responsibilities, consistent with applicable law.

§ 2401.2 Delegation of authority.

(a) *Federal Labor Relations Council.* The General Council of the Federal Labor Relations Council (or person acting in his stead) is delegated the exclusive authority to act upon all requests for information, documents and records which are received from any person or organization.

(b) *Federal Service Impasses Panel.* The Executive Secretary of the Federal Service Impasses Panel (or person acting in his stead) is delegated the exclusive authority to act upon all requests for information, documents and records which are received from any person or organization.

§ 2401.3 Information policy.

(a) *Federal Labor Relations Council.*—(1) It is the policy of the Federal Labor Relations Council to make available for public inspection and copying final decisions and orders of the Federal Labor Relations Council, statements of policy and interpretations which have been adopted by the Council and are not published in the FEDERAL REGISTER, and administrative staff manuals and instructions to staff that affect a member of the public. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing.

(2) It is the policy of the Federal Labor Relations Council to make promptly available for public inspection and copying, upon request by any person, other records where the request reasonably describes such records and otherwise conforms with the rules provided herein.

(b) *Federal Service Impasses Panel.*—(1) It is the policy of the Federal Service Impasses Panel to make available for public inspection and copying authorizations and directions by the Federal Service Impasses Panel of third-party factfinding and arbitration, final decisions and orders of the Panel, statements of policy and interpretations which have been adopted by the Panel and are not published in the FEDERAL REGISTER, and administrative staff manuals and instructions to staff that affect a member of the public. To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details may be deleted and, in each case, the justification for the deletion shall be fully explained in writing.

(2) It is the policy of the Federal Service Impasses Panel to make promptly available for public inspection and copying, upon request by any person, other records where the request reasonably describes such records and otherwise conforms with the rules provided herein.

(c) The Council or the Panel may decline to disclose any matters exempted from the disclosure requirements in 5 U.S.C. 552(b), particularly those that are: (1) (i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (ii) are in fact properly classified pursuant to such Executive Order; (2) related solely to internal personnel rules and practices of the Council or the Panel; (3) specifically exempted from disclosure by statute; (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential; (5) interagency and intra-agency memoranda or letters; (6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; or (7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose investigative techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel.

(d) Any person may examine and copy such document or record of the Council

or Panel under conditions prescribed by the General Counsel of the Council or the Executive Secretary of the Panel, as the case may be, at reasonable times during normal working hours so long as it does not interfere with the efficient operations of either the Council or the Panel.

(e) The Council and the Panel shall maintain and make available for public inspection and copying the current indexes and supplements thereto which are required by 5 U.S.C. 552(a)(2).

§ 2401.4 Procedure for obtaining information.

(a) *Federal Labor Relations Council.* Any person who desires to inspect or copy any records, documents or other information of the Council covered by this part shall submit a written request to that effect to the General Counsel, Federal Labor Relations Council, 1900 E Street NW., Washington, D.C. 20415.

(b) *Federal Service Impasses Panel.* Any person who desires to inspect or copy any records, documents or other information of the Panel covered by this part shall submit a written request to that effect to the Executive Secretary, Federal Service Impasses Panel, 1900 E Street NW., Washington, D.C. 20415.

(c) All requests under this part should be clearly and prominently identified as a request for information under the Freedom of Information Act and, if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly identified as such on the envelope or other cover. If a request does not comply with the provisions of this paragraph, it shall not be deemed received by the Federal Labor Relations Council or the Federal Service Impasses Panel until the time it is actually received by the General Counsel or the Executive Secretary, as the case may be.

§ 2401.5 Identification of information requested.

(a) Each request under this part should reasonably describe the records being sought, in a way that they can be identified and located. A request should include all pertinent details that will help identify the records sought.

(b) If the description is insufficient, the officer processing the request will so notify the person making the request and indicate the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the record sought.

(c) Upon receipt of a request for records, the General Counsel of the Council or the Executive Secretary of the Panel, as the case may be, shall enter it in a public log. The log shall state the date and time received, the name and address of the person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to paragraphs (b) and (c) of § 2401.6, the date(s) any records are subsequently furnished, the number of staff-hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

§ 2401.6 Time limits for processing requests.

(a) All time limits established pursuant to this section shall begin as of the time at which a request for records is logged in by the officer processing the request pursuant to paragraph (c) of § 2401.5. An oral request for records shall not begin any time requirement. A written request for records sent to an office of the Council or the Panel other than the one having authority to grant or deny access to the records shall be redirected immediately to the appropriate officer for processing, and the time shall begin upon its being logged in as required by paragraph (c) of § 2401.5.

(b) Except as provided in § 2401.8, the General Counsel of the Council or the Executive Secretary of the Panel, as the case may be, shall, within ten (10) working days following receipt of the request, respond in writing to the requester, determining whether, or the extent to which, the request shall be complied with.

(1) If all the records requested have been located and a final determination has been made with respect to disclosure of all of the records requested, the response shall so state.

(2) If all of the records have not been located or a final determination has not been made with respect to disclosure of all the records requested, the response shall state the extent to which the records involved shall be disclosed pursuant to the rules established in this part.

(3) If the request is expected to involve an assessed fee in excess of $25.00, the response shall specify or estimate the fee involved and shall require prepayment before the records are made available.

(4) Whenever possible, the response relating to a request for records that involves a fee of less than $25.00, shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the Council or the Panel.

(c) If any request for records is denied in whole or in part, the response required by paragraph (b) of this section shall notify the requester of the denial. Such denial shall specify the reason therefor and also advise that, in case of denial by the General Counsel of the Council, the denial may be appealled to the Executive Director of the Council (or person acting in his stead) as specified in paragraph (a)(1) of § 2401.7, or, in case of denial by the Executive Secretary of the Panel, the denial may be appealed to the Chairman of the Federal Service Impasses Panel (or person acting in his stead) as specified in paragraph (b)(1) of § 2401.7.

§ 2401.7 Appeal from denial of request.

(a) *Federal Labor Relations Council.*— (1) Whenever any request for records is denied by the General Counsel, a written appeal may be filed with the Executive Director, Federal Labor Relations Council, 1900 E Street NW., Washington, D.C. 20415, within 30 days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial.

(2) A determination on the appeal shall be made within 20 working days from the time of receipt of the appeal, except as provided in § 2401.8. If on appeal the denial of the request for records is upheld in whole or in part, the Executive Director shall notify the requester of the reasons therefor, and shall advise the requester of the provisions for judicial review under 5 U.S.C. 552(a)(4).

(b) *Federal Service Impasses Panel.*— (1) Whenever any request for records is denied by the Executive Secretary, a written appeal may be filed with the Chairman, Federal Service Impasses Panel, 1900 E Street NW., Washington, D.C. 20415, within 30 days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial.

(2) A determination on the appeal shall be made within 20 working days from the time of receipt of the appeal, except as provided in § 2401.8. If on appeal the denial of the request for records is upheld in whole or in part, the Chairman shall notify the requester of the reasons therefor, and shall advise the requester of the provisions for judicial review under 5 U.S.C. 552(a)(4).

§ 2401.8 Extension of time limits.

In unusual circumstances as specified in this section, the time limits prescribed with respect to initial determinations or determinations on appeal may be extended by written notice from the officer handling the request (either initial or on appeal) to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in a total extension of more than ten (10) working days. As used in this section, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

§ 2401.9 Effect of failure to meet time limits.

Failure by the Council or the Panel to either deny or grant any request under this part within the time limits prescribed by the Freedom of Information Act (5 U.S.C. 552, as amended) and these

regulations shall be deemed to be an exhaustion of the administrative remedies available to the person making this request.

§ 2401.10 Fees.

(a) The following fees shall be charged for disclosure of any record pursuant to this part.

(1) *Copying of records.* Ten cents per copy of each page.

(2) *Clerical searches.* $1.25 for each one-quarter hour spent by clerical personnel searching for and producing a requested record, including time spent copying any record.

(3) *Nonclerical searches.* $2.50 for each one-quarter hour spent by professional or managerial personnel searching for and producing a requested record, including time spent copying any record.

(4) *Forwarding material to destination.* Postage, insurance, and special fees will be charged on an actual cost basis.

(b) Requests by parties for copies of transcripts of hearings shall be made to the official hearing reporter.

(c) No charge shall be made for the time spent in resolving legal or policy issues or in examining records for the purpose of deleting nondisclosable portions thereof.

(d) All charges may be waved or reduced whenever it is in the public interest to do so.

(e) Payment of fees shall be made by check or money order payable to the U.S. Treasury.

§ 2401.11 Compliance with subpoenas.

No member of the Council or the Panel, or other officer or employee of the Council or the Panel, shall produce or present any files, documents, reports, memoranda, or records of the Council or the Panel or testify in behalf of any party to any cause pending in any arbitration or in any court or before the Council or the Panel, or any other board, commission, or administrative agency of the United States, territory, or the District of Columbia with respect to any information, facts, or other matter to his knowledge in his official capacity or with respect to the contents of any files, documents, reports, memoranda, or records of the Council or the Panel, whether in answer to a subpoena, subpoena duces tecum, or otherwise, without the written consent of the Council or the Panel, as the case may be. Whenever any subpoena, the purpose for which is to adduce testimony or require the production of records as described above, shall have been served on any member or other officer or employee of the Council or the Panel, he will, unless otherwise expressly directed by the Council or the Panel, as the case may be, move pursuant to the applicable procedure to have such subpoena invalidated on the ground that the evidence sought is privileged against disclosure by this rule.

§ 2401.12 Annual report.

On or before March 1 of each calendar year, the Executive Director of the Council shall submit a report of the activities of the Council and the Panel with regard to public information requests during the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include for such calendar year all information required by 5 U.S.C. 552(d) and such other information as indicates the efforts of the Council and Panel to administer fully the provisions of the Freedom of Information Act, as amended.

[FR Doc.75-5156 Filed 2-25-75;8:45 am]

Title 7—Agriculture

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

PART 982—HANDLING OF FILBERTS GROWN IN OREGON AND WASHINGTON

Revised Free and Restricted Percentages for the 1974–75 Fiscal Year

Notice of a proposal to revise the free and restricted percentages applicable to filberts grown in Oregon and Washington was published in the FEDERAL REGISTER on January 28, 1975 (40 FR 4151). The free and restricted percentages of 61 percent and 39 percent, respectively, established November 29, 1974 (39 FR 41510), would be revised to 65 percent and 35 percent, respectively. These revised percentages would apply to filberts grown in the 1974–75 fiscal year, beginning August 1, 1974.

The free percentage prescribes that portion of the total merchantable supply which may be handled as inshell filberts. The restricted percentage prescribes that portion of the total merchantable supply which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Filbert Control Board to be noncompetitive with normal market outlets for inshell filberts.

The revised percentages would be established under § 982.41 of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

Interested persons were afforded an opportunity to submit written data, views, or arguments on the proposal. None were received.

The Filbert Control Board, at a November 12, 1974, meeting estimated the total production of filberts for 1974 at 7,000 tons, of which 6,164 tons would be merchantable and the free and restricted percentages currently effective were established on the basis of those estimates. The Board, at a January 16, 1975, meeting revised its estimate of total production downward to 6,500 tons, of which an estimated 5,720 tons would be merchantable. The Board also increased its previous estimate of carryover not subject to regulation on August 1, 1974, from 1,629 tons to 1,695 tons. The downward revision in the production estimate makes necessary an increase in the free percentage in order to make available the same quantity of inshell filberts as were made available by the percentages established on November 29, 1974.

The revised percentages are based upon the following estimates for the 1974–75 fiscal year:

Inshell supply:

		Tons
(1)	Total production	6,500
(2)	Less substandard, etc	780
(3)	Total merchantable production	5,720
(4)	Carryover Aug. 1, 1974, subject to regulation	306
(5)	Total merchantable supply (item 3 plus item 4)	6,026

Inshell requirements:

		Tons
(6)	Trade demand	5,200
(7)	Carryover July 31, 1975	400
(8)	Total	5,600
(9)	Less carryover Aug. 1, 1974, not subject to regulation	1,695
(10)	Inshell requirements	3,905

Percentages:

(11)	Free percentage (item 10 divided by item 5)	65
(12)	Restricted percentage (100 percent minus 65 percent)	35

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Filbert Control Board, and other available information, it is found that to revise the free and restricted percentages for the 1974–75 fiscal year applicable to filberts grown in Oregon and Washington, to 65 percent and 35 percent, respectively, will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the amended marketing agreement and this part require that free and restricted percentages designated for a particular fiscal year shall be applicable to all inshell filberts handled during that fiscal year; (2) the current fiscal year began on August 1, 1974, and the percentages established by this action will automatically apply to all such filberts beginning with that date; and (3) no useful purpose would be served by delaying this action.

Therefore, the free and restricted percentages established for merchantable filberts during the 1974–75 fiscal year and set forth in § 982.224 of Subpart—Free and Restricted Percentages are revised to read as follows:

§ 982.224 Free and restricted percentages for merchantable filberts during the 1974–75 fiscal year.

The following percentages are established for merchantable filberts for the fiscal year beginning August 1, 1974:

Free percentage	65
Restricted percentage	35

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

Dated: February 21, 1975.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.75-5142 Filed 2-25-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-NW-2-AD; Amendment 39-2105]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 737 Series Airplanes

There has been a failure of the wiring to the No. 2 engine fuel shutoff valve on a Boeing model 737 airplane which caused an unwanted fuel valve closure and engine shutdown due to fuel starvation during the takeoff roll. The takeoff was aborted. The wires adjacent to the fuel valve had chafed against each other wearing the insulation sufficiently to bare the metal conductors and shorting to each other, causing power to be shunted to the closing coil of the fuel shutoff valve actuator motor. A survey made of several other 737 operators revealed a significant number of cases of wire insulation in a chafed condition along with some worn clamps holding the wire bundles. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to provide the necessary inspections and modifications to ensure normal operation of the engine fuel shutoff valves and the fuel manifold crossfeed valve.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13687), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BOEING: Applies to all model 737 series airplanes, certificated in all categories. Compliance required as indicated.

(1) Within the next 100 hours' time in service after the effective date of this AD, unless already accomplished, inspect the engine fuel shutoff and crossfeed valve wire bundles for chafing in accordance with Boeing Service Bulletin No. 737-28-1022, dated December 20, 1974, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(2) If wire or wire insulation chafing or clamp damage is found, replace and modify the wiring and replace the wiring harness clamps in accordance with Boeing Service Bulletin No. 737-28-1022, dated December 20, 1974, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(3) Within the next 1000 hours' time in service after the effective date of this AD, for airplanes with no wire or wire insulation chafing or clamp damage, replace and modify the wiring and replace the wiring harness clamps in accordance with Boeing Service Bulletin No. 737-28-1022, dated December 20, 1974, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

The manufacture's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The documents may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 24, 1975.

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

Issued in Seattle, Washington on February 18, 1975.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.75-5048 Filed 2-25-75;8:45 am]

[Docket No. 75-EA-2; Amdt. 39-2102]

PART 39—AIRWORTHINESS DIRECTIVE

Fairchild Hiller Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to amend AD 62-1-1, applicable to Fairchild Hiller F-27 and FH-227 type airplanes.

The purpose of this amendment is to insert in the AD an alternative method of computing the life limit on the subject part in terms of cycles. Presently the computation is premised on hours in service.

Since this amendment is an alternative method of compliance, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697], § 39.13 of Part 39 of the Federal Aviation Regulations is amended by amending AD 62-1-1 by adding, "or 20,000 cycles of operation of the chemical drier (two cycles for each takeoff and landing sequence of the aircraft)." after the words and figures, "4300 hours' time in service."

This amendment is effective February 26, 1975.

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

Issued in Jamaica, N.Y., on February 14, 1975.

JAMES BISPO,
Acting Director, Eastern Region.

[FR Doc.75-5051 Filed 2-25-75;8:45 am]

[Airworthiness Docket No. 74-WE-49-AD; Amdt. 39-2104]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed L-1011-385-1 Series Airplanes

Amendment 39-2049 (39 FR 43621), AD 74-26-06, requires a functional check and modification of the Engine Shutoff Control Panel Assembly, P/N 1520324 or P/N 1580810, installed on Lockheed L-1011-385-1 series airplanes. After issuing Amendment 39-2049, due to later reported service experience, the agency determined that several Engine Shutoff Control Panel Assemblies, P/N 1520324 or P/N 1580810, of the later improved configuration, exempted from repair by AD 74-26-06, have failed in the same manner as those previously required to be modified. Therefore, the AD is being revised and rewritten in its entirety to require repair of those assembly configurations not previously covered by the AD, in accordance with the manufacturer's service document, Revision 1, to Lockheed Service Bulletin 093-26-010. Also, the functional test of paragraph (1) now required per the AD is being deleted.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2049 (39 FR 43621), AD 74-26-06, is amended as follows:

LOCKHEED-CALIFORNIA. Applies to all L-1011-385-1 Series Airplanes certificated in all categories, incorporating Engine Shutoff Control Panel Assemblies, P/N 1520324 or P/N 1580810, all configurations.

Compliance required as indicated, unless already accomplished.

To provide protection in the event of an unknown incipient failure condition in the housing of the fire pull handle assembly, P/N 1520324 or P/N 1580810, accomplish the following:

(1) Within 600 hours time in service after the effective date of this AD, as amended,

(a) Modify the Control Panel Assembly, 152034 or P/N 1580810, accomplish the P/N 152034 or P/N 1580810, in accordance 093-26-010, dated November 21, 1974, revised February 11, 1975 or later FAA-approved revisions.

(b) Re-identify all modified Control Panel Assemblies in accordance with Part 3B of Lockheed Service Bulletin 093-26-010, dated November 21, 1974, revised February 11, 1975, or later FAA-approved revisions.

(2) Equivalent repairs or modifications may be approved by the Chief, Aircraft Engineering Division, FAA Western Region,

upon submission of adequate substantiating data.

NOTE.—Those engine shutoff control panel assemblies marked as P/N 1604009 or P/N 1605009 are in compliance with this AD.

This amendment to AD 74-26-06 becomes effective March 4, 1975.

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

Issued in Los Angeles, California on February 18, 1975.

LYNN L. HINK,
Acting Director,
FAA Western Region.

[FR Doc.75-5049 Filed 2-25-75;8:45 am]

Title 29—Labor

CHAPTER XII—FEDERAL MEDIATION AND CONCILIATION SERVICE

PART 1401—PUBLIC INFORMATION

Procedures and Cost for Obtaining Information

On January 28, 1975, there was published in the FEDERAL REGISTER (40 CFR 4155) a notice of proposed rule-making to amend Part 1401 with respect to the procedures and costs for obtaining information. The proposed amendment created Subpart A dealing with the policy and procedure to be followed when information is requested in response to subpoenas. Subpart B would establish the policy, procedures and costs for the disclosure of information. Interested persons were given until February 14, 1975 in which to submit comments, data or arguments regarding the proposed regulations.

No written objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These FMCS regulations are effective February 19, 1975.

Approved: February 19, 1975.

W. J. USERY, Jr.,
National Director.

Part 1401 is revised to read as follows:

Subpart A—Information or Testimony in Response to Subpoenas

Sec.
1401.1 Purpose and scope.
1401.2 Production of records or testimony by FMCS employees.
1401.3 Procedure in the event of a demand for production disclosure or testimony.

Subpart B—Production or Disclosure of Information

Sec.
1401.20 Purpose and scope.
1401.21 Information policy.
1401.22 Partial disclosure of records.
1401.23 Preparation of new records.
1401.24 Notices of dispute are disclosable.
1401.30 Applicability of procedures.
1401.31 Filing a request for records.
1401.32 Description of information requested.
1401.33 Logging of written requests.
1401.34 Time for processing requests.
1401.35 Appeals from denials of request.
1401.36 Fees—duplication cost and search.
1401.37 Annual report.

AUTHORITY: Sec. 202, 61 Stat. 153, as amended; 29 U.S.C. 172; Pub. L. 90-23, 81 Stat. 54-56 as amended by Pub. L. 93-502, 88 Stat. 1561-1565 (5 U.S.C. 552).

Subpart A—Information in Response to Subpoenas

§ 1401.1 Purpose and scope.

This subpart contains the regulations of the Service concerning procedures to be followed when a subpoena, order, or other demand of a court or other authority is issued for the production or disclosure of (a) any material contained in the files of the Service; (b) any information relating to material contained in the files of the Service; or (c) any information or material acquired by any person as a part of the performance of his official duties or because of his official status, while such person was an employee of the Service.

§ 1401.2 Production of records or testimony by FMCS employees.

(a) Public policy and the successful effectuation of the Federal Mediation and Conciliation Service's mission require that commissioners and employees maintain a reputation for impartiality and integrity. Labor and management or other interested parties participating in mediation efforts must have the assurance and confidence that information disclosed to commissioners and other employees of the Service will not subsequently be divulged, voluntarily or because of compulsion, unless authorized by the Director of the Service.

(b) No officer, employee, or other person officially connected in any capacity with the Service, currently or formerly, shall, in response to a subpoena, subpoena duces tecum, or other judicial or administrative order, produce any material contained in the files of the Service, disclose any information acquired as part of the performance of his official duties or because of his official status, or testify on behalf of any party to any matter pending in any judicial, arbitral or administrative proceeding, without the prior approval of the Director.

§ 1401.3 Procedure in the event of a demand for production, disclosure or testimony.

(a) Any request for records of the Service, whether it be by letter, by subpoena duces tecum or by any other written demand, shall be handled pursuant to the procedures established in Subpart B. of this part, and shall comply with the rules governing public disclosure.

(b) Whenever any subpoena or subpoena duces tecum calling for production of records or testimony as described above shall have been served upon any officer, employee or other person as noted in § 1401.2(b), he will, unless notified otherwise appear in answer thereto, and unless otherwise expressly directed by the Director, respectfully decline to produce or present such records or to give such testimony, by reason of the prohibitions of this section, and shall state that the production of the record(s) involved will be handled by the procedures established in this part.

Subpart B—Production or Disclosure of Information

§ 1401.20 Purpose and scope.

This subpart contains the regulations of the Federal Mediation and Conciliation Service providing for public access to information from records of the Service. These regulations implement the Freedom of Information Act, 5 U.S.C. 552, as amended by Pub. L. 93-502, and the policy of the FMCS to disseminate information on matters of interest to the public and to disclose to members of the public on request such information contained in records in its custody insofar as is compatible with the discharge of its responsibilities and the principle of confidentiality of dispute resolution by third party neutrals, consistent with applicable law.

§ 1401.21 Information policy.

(a) Except for matters specifically excluded by subsection 552(b) of Title 5, United States Code, or other applicable statute, all documents and records maintained by this agency or within the custody thereof shall be available to the public upon request filed in accordance with these regulations. To the extent permitted by other laws, the Service also will make available records which it is authorized to withhold under 5 U.S.C. 552(b) whenever it determines that such disclosure is in the public interest.

(b) Any document released for inspection under the provisions of this part may be manually copied by the requesting party. The Service shall provide facilities for copying such documents at reasonable times during normal working hours so long as it does not interfere with the efficient operation of the agency.

(c) The Service will also publish and maintain a current index, revised quarterly, providing identifying information for the public as to statements of policy and interpretation adopted by the agency and still in force but not published in the FEDERAL REGISTER, and administrative staff manuals and instructions to staff that affect a member of the public. The Service will also maintain on file all material published by the Service in the FEDERAL REGISTER and currently in effect.

(d) Records or documents prepared by the Service for routine public distribution, e.g., pamphlets, speeches, and educational or training materials, shall be furnished free of charge upon request to the Office of Information, Federal Mediation and Conciliation Service, 14th Street and Constitution Avenue, NW., Washington, D.C. 20427, as long as the supply lasts. The provisions of § 1401.36 shall not be applicable to such requests except when the supply of such material is exhausted and it is necessary to reproduce individual copies upon specific request.

(e) All existing FMCS records are subject to routine destruction according to standard record retention schedules.

§ 1401.22 Partial disclosure of records.

If a record contains both disclosable and nondisclosable information, the nondisclosable information will be deleted and the remaining record will be disclosed unless the two are so inextricably intertwined that it is not feasible to separate them or release of the disclosable information would compromise or impinge upon the nondisclosable portion of the record.

§ 1401.23 Preparation of new records.

(a) The Freedom of Information Act and the provisions of this part apply only to existing records that are reasonably described in a request filed with the Federal Mediation and Conciliation Service pursuant to the procedures established in §§ 1401.31–1401.34.

(b) The Director may, in his discretion, prepare new records in order to respond to a request for information when he concludes that it is in the public interest and promotes the objectives of the Labor-Management Relations Act, 1947, as amended.

§ 1401.24 Notices of dispute are disclosable.

Written notices of disputes received by the Service pursuant to sections 8(d)(3), 8(d)(A) and 8(d)(B) of the Labor-Management Relations Act, 1947, as amended, are not exempt from disclosure. Parties at interest have the right to receive certified copies of any such notice of dispute upon written request to the regional director of the region in which the notice is filed.

§ 1401.30 Applicability of procedures.

Requests for inspection or copying of information from records in the custody of the FMCS which are reasonably identifiable and available under the provisions of this part shall be made and acted upon as provided in the following sections of this subpart. The prescribed procedure shall be followed in all cases where access is sought to official records pursuant to the provisions of the Freedom of Information Act, except with respect to records for which a less formal disclosure procedure is provided specifically in this part.

§ 1401.31 Filing a request for records.

(a) Any person who desires to inspect or copy any record covered by this part shall submit a written request to that effect to the appropriate office of FMCS which has custody of the record. Standard forms for making a request are not required.

(1) If the records are kept in Washington, D.C., the request shall be directed to the Director of the office, as specified in paragraph (b).

(2) If the records are kept in a field office, the request shall be directed to the office of the regional Director of the region within which the field office maintains custody of such records, as specified in paragraph (c).

(3) If the person making the request does not know where the record is located, he may direct his request to the Director of Administration, FMCS, listed in paragraph (b), below.

(b) The Washington, D.C. offices of FMCS referred to in paragraph (a)(1) of this section, located at 14th Street and Constitution Avenue, NW., Washington, D.C., 20427, are as follows:

(1) Office of the National Director (202) 961–3501.
(2) Office of the General Counsel (202) 961–3714.
(3) Office of Mediation Services (202) 961–3505.
(4) Office of Arbitration Services (202) 961–3513.
(5) Office of Administration (202) 961–3566.
(6) Office of Technical Services (202) 961–3553.
(7) Office of Information (202) 961–3518.

(c) The regional Directors' office referred to in paragraph (a)(2) of this section are:

Region 1—Room 2937, Federal Building, 26 Federal Plaza, New York, N.Y. 10007; (212) 264–1000.

Region 2—Room 401, Mall Building, Fourth and Chestnut Streets, Philadelphia, Pa. 19106; (215) 597–7680.

Region 3—Suite 400, 1422 West Peachtree Street, NW., Atlanta, Ga. 30309; (404) 526–2473.

Region 4—Room 1525, Superior Building, 815 Superior Avenue, NE., Cleveland, Ohio 44114; (216) 522–4800.

Region 5—Room 1402, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Chicago, Ill. 60604; (312) 353–7350.

Region 6—Room 3266, Federal Building, 1520 Market Street, St. Louis, Mo. 63103; (314) 622–4591.

Region 7—Room 13471, New Federal Office Building, 450 Golden Gate Avenue, P.O. Box 36007, San Francisco, Calif. 94102; (415) 556–4670.

§ 1401.32 Description of information requested.

(a) Each request should reasonably describe the records being sought, in a way that they can be identified and located. A request should include all pertinent details that will help identify the records sought.

(b) If the description is insufficient, the officer processing the request will so notify the person making the request and indicate the additional information needed. Every reasonable effort shall be made to assist in the identification and location of the records sought.

§ 1401.33 Logging of written requests.

(a) All requests for records should be clearly and prominently identified as a request for information under the Freedom of Information Act, and if submitted by mail or otherwise submitted in an envelope or other cover, should be clearly and prominently identified as such on the envelope or other cover.

(b) Upon receipt of a request for records, the officer processing the request shall enter it in a public log. The log shall state the date and time received, the name and address of the person making the request, the nature of the records requested, the action taken on the request, the date of the determination letter sent pursuant to § 1401.34 (b) and (d), the date(s) any records are subsequently furnished, the number of staff hours and grade levels of persons who spent time responding to the request, and the payment requested and received.

§ 1401.34 Time for processing requests.

(a) All time limitations established pursuant to this section shall begin as of the time at which a request for records is logged in by the officer processing the request pursuant to § 1401.33(b). An oral request for records shall not begin any time requirement. A written request for records sent to an office of FMCS other than the one having authority to grant or deny access to the records shall be redirected immediately to the appropriate officer for processing, and the time shall begin upon its being logged in there in accordance with § 1401.33(b).

(b) The officer passing upon the request for records shall, within ten (10) working days following receipt of the request, respond in writing to the requester, determining whether, or the extent to which, the agency shall comply with the request.

(1) If all of the records requested have been located and a final determination has been made with respect to disclosure of all of the records requested, the response shall so state.

(2) If all of the records have not been located or a final determination has not been made with respect to disclosure of all the records requested, the response shall state the extent to which the records involved shall be disclosed pursuant to the rules established in this part.

(3) If the request is expected to involve an assessed fee in excess of $50.00, the response shall specify or estimate the fee involved and shall require prepayment before the records are made available.

(4) Whenever possible, the response relating to a request for records that involves a fee of less than $50.00, shall be accompanied by the requested records. Where this is not possible, the records shall be forwarded as soon as possible thereafter, consistent with other obligations of the agency.

(c) In the following circumstances, the time for passing upon the request may be extended for up to an additional 10 working days by written notice to the person making the request, setting forth the reasons for such extension and the time within which a determination is expected to be made:

(1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more

components of the agency having substantial subject matter interest therein.

(d) If any request for records is denied in whole or in part, the response required by paragraph (b) of this section shall notify the requester of the denial. Such denial shall specify the reason therefor and also advise that the denial may be appealed to the Office of Deputy National Director of the agency as specified in § 1401.35.

§ 1401.35 Appeals from denials of request.

(a) Whenever any request for records is denied, a written appeal may be filed with the Deputy National Director, FMCS, Washington, D.C. 20427, within 30 days after the requester receives notification that the request has been denied or after the requester receives any records being made available, in the event of partial denial. The appeal shall state the grounds for appeal, including any supporting statements or arguments.

(b) Final action on the appeal shall be taken within 20 working days from the time of receipt of the appeal. Where novel and complicated questions have been raised or unusual difficulties have been encountered, the Deputy National Director may extend the time for final action up to an additional 10 days, depending upon whether there had been an extension pursuant to subsection 1401.34(c) at the initial stage. In such cases, the applicant shall be notified in writing of the reasons for the extension of time and the approximate date on which a final response will be forthcoming.

(c) If on appeal the denial of the request for records is upheld in whole or in part, the Deputy National Director shall notify the applicant of the reasons therefor, and shall advise the requester of the provisions for judicial review under 5 U.S.C. 552(a)(4) and (6).

§ 1401.36 Fees—duplication cost and search.

(a) Unless waived in accordance with paragraph (d) of this section, the following schedule of fees shall be imposed for the production and copying of any record pursuant to this part.

(1) *Copy of records.* Twenty ($0.20) cents per copy per page.

(2) *Clerical searches.* $1.25 for each one-quarter hour or fraction thereof spent in excess of the first quarter-hour in searching for or producing a requested record, including time spent copying any record.

(3) *Nonclerical searches.* $3.50 for each one-quarter hour spent by professional or managerial personnel searching for or producing a requested record, including time spent copying any record.

(4) *Certification or authentication of records.* $2.00 per certification or authentication.

(5) *Forwarding material to destination.* Postage, insurance, and special fees will be charged on an actual cost basis.

(b) Rule of construction: In providing the foregoing fee schedule pursuant to the provisions of 5 U.S.C. 552(a)(3), it is the intent of this section to apply 29 U.S.C. 9(b) and the user charge statute (31 U.S.C. 483(a)) to cover those situations where the agency is performing for a requester services which are not required under the Freedom of Information Act.

(c) No fee shall be charged if a record requested is not found or for any record that is totally exempt from disclosure.

(d) The officer processing the request for records may, in his discretion, waive or reduce fees otherwise applicable under paragraph (a) of this section for services in producing and copying record information under the following circumstances:

(1) Where inability to pay is demonstrated and it is clear that a significant public interest would be served by providing the service free of charge.

(2) Where it is in the public interest because furnishing the information can be considered primarily as benefiting the general public.

(3) In making a determination of the broad public interest involved, the officer shall weigh the agency resources involved against the likely benefit to the public.

(e) Payment of fees: Payment shall be made by check or money order payable to "Federal Mediation and Conciliation Service," and shall be sent to the Director of the Office of Administration, FMCS, 14th and Constitution Avenue NW., Washington, D.C. 20427.

§ 1401.37 Annual report.

(a) The Office of the National Director shall annually, within 60 days following the close of each calendar year, prepare a report covering each of the categories of records to be maintained in accordance with 5 U.S.C. 552(d) for such calendar year and shall forthwith submit the same to the Speaker of the House of Representatives and the President of the Senate for referral to the appropriate committees of the Congress.

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CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1610—AVAILABILITY OF RECORDS

Subpart A—Production or Disclosure Under 5 U.S.C. 552

The Equal Employment Opportunity Commission, by vote taken at a duly constituted meeting, has amended its procedural regulations concerning disclosure of information under the Freedom of Information Act (5 U.S.C. section 552), Pub. L. 90-23, as amended by Pub. L. 93-502. The revised regulations provide that certain records will be made available at district offices, that certain types of records will be routinely released, that records which are requested must be "reasonably described," that the General Counsel will render a determination within 10 working days on all requests for records which are not available in the Commission reading areas or not published and made available for sale, unless conditions for an extension are present, and that determinations and appeals will be rendered by the Commission with 20 days of receipt by the Chairman. The revised regulations also require that the General Counsel keep a Freedom of Information file of requests and dispositions and that he make a report to the Congress on the Commission's Freedom of Information Act activities as required by 5 U.S.C. 552(d). Finally, the regulations were amended to reflect that all 32 district offices of the Commission shall have public reading areas, and to indicate the addresses of litigation centers and regional offices.

The fee schedule was published in proposed form in 40 FR 3011 on Friday, January 17, 1975, as § 1610.17(a). Although the Commission invited the public to make comment, it received none. Section 1610.17(a) is published herein in final form and without change as § 1610.15(a).

Accordingly, Subpart A of Part 1610 of Title 29 of the Code of Federal Regulations is hereby revised, effective February 19, 1975, to read as follows:

Subpart A—Production or Disclosure Under 5 U.S.C. 552

Sec.
1610.1 Definitions.
1610.2 Statutory requirements.
1610.3 Purpose and scope.
1610.4 Public reference facilities and current index.
1610.5 Request for records.
1610.6 Records of other agencies.
1610.7 Where to make request; form.
1610.8 Authority to determine.
1610.9 Prompt response.
1610.10 Responses: Form and content.
1610.11 Appeals to the Commission from initial denials.
1610.13 Maintenance of files.
1610.14 Waiver of user charges.
1610.15 Schedule of fees and method of payment for services rendered.
1610.16 Payment of fees.
1610.17 Exemptions.
1610.18 Information to be disclosed.
1610.19 Deletion of exempted matters.
1610.20 Annual report.
1610.21 Other Commission Offices.

AUTHORITY: Sec. 713(a), 78 Stat. 265, 42 U.S.C. 2000e-12(a), 5 U.S.C. § 552, as amended by Pub. L. 93-502; for § 1610.15, non search or copy portions are issued under 31 U.S.C. 483a.

Subpart A—Production or Disclosure Under 5 U.S.C. 552

§ 1610.1 Definitions.

(a) "Title VII" refers to Title VII of the Civil Rights Act of 1964, as amended by Pub. L. 92-261, 42 U.S.C. (Supp. II) 2000e et seq.

(b) "Commission" refers to the Equal Employment Opportunity Commission.

(c) "Freedom of Information Act" refers to 5 U.S.C. 552 (Pub. L. 90-23 as amended by Pub. L. 93-502).

§ 1610.2 Statutory requirements.

5 U.S.C. 552(a)(3) requires each Agency, upon request for reasonably described records made in accordance with published rules stating the time, place, fees, if any, and procedure to be followed, to make such records promptly available to any person. 5 U.S.C. 552(b) exempts specified classes of records from the public access requirements of 5 U.S.C. 552(a) and permits them to be withheld.

§ 1610.3 Purpose and scope.

This subpart contains the regulations of the Equal Employment Opportunity Commission implementing 5 U.S.C. 552. The regulations of this subpart provide information concerning the procedures by which records may be obtained from all organizational units within the Commission. Official records of the Commission made available pursuant to the requirements of 5 U.S.C. 552 shall be furnished to members of the public only as prescribed by this subpart. Officers and employees of the Commmission may continue to furnish to the public, informally and without compliance with the procedures prescribed herein, information and records which prior to the enactment of 5 U.S.C. 552 were furnished customarily in the regular performance of their duties. To the extent that it is not prohibited by other laws, the Commission also will make available records which it is authorized to withhold under 5 U.S.C. 552 whenever it determines that such disclosure is in the public interest.

§ 1610.4 Public reference facilities and current index.

(a) The Commission will maintain in a public reading area located in the Commission's library at 2401 E Street NW., Washington, D.C. 20506, the materials which are required by 5 U.S.C. 552(a)(2) and 552(a)(5) to be made available for public inspection and copying. The Commission will maintain and make available for public inspection and copying in this public reading area a current index providing identifying information for the public as to any matter which is issued, adopted, or promulgated after July 4, 1967, and which is required to be indexed by 5 U.S.C. 552(a)(2). The Commission in its discretion may, however, include precedential materials issued, adopted, or promulgated prior to July 4, 1967. The Commission will also maintain on file in this public reading area all material published by the Commission in the FEDERAL REGISTER and currently in effect.

(b) Each district office listed in paragraph (c) shall maintain a public reading room or area which shall contain a copy of:

(1) The Commission's notices and regulatory amendments which are not yet or have never been published in the Code of Federal Regulations,

(2) The Commission's annual reports,

(3) The Commission's Compliance Manual,

(4) Blank forms relating to the Commission's procedures as they affect the public,

(5) The Commission's Orders (agency directives), and

(6) "CCH Equal Employment Opportunity Commission Decisions" (1973) and Employment Practices Guide (vol. 1), both published by Commerce Clearing House, Inc.

(c) The Commission's District Offices are:

1. Atlanta District Office, Citizens' Trust Building, 10th Floor, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303.
2. Birmingham District Office, 2121—8th Avenue, North, Room 824, Birmingham, Alabama 35203.
3. Charlotte District Office, 411 North Tryon Street, 2nd Floor, Charlotte, North Carolina 28202.
4. Jackson District Office, 203 West Capitol Street, 2nd Floor, Jackson, Mississippi 39201.
5. Memphis District Office, The Dermon Building, Suite 1004, 46 North Third Street, Memphis, Tennessee 38103.
6. Miami District Office, Biscayne Terrace Hotel, 10th Floor, 340 Biscayne Boulevard, Miami, Florida 33132.
7. Chicago District Office, Federal Building, Room 234, 536 South Clark Street, Chicago, Illinois 60605.
8. Cincinnati District Office, Federal Building, Room 8525, 550 Main Street, Cincinnati, Ohio 45202.
9. Cleveland District Office, Engineers' Building, Room 402, 1365 Ontario Street, Cleveland, Ohio 44114.
10. Detroit District Office, Michigan Building, Suite 600, 220 Bagley Avenue, Detroit, Michigan 48226.
11. Indianapolis District Office, Federal Building, U.S. Courthouse, 46 East Ohio Street, Room 456, Indianapolis, Indiana 46204.
12. Milwaukee District Office, Veterans Administration Building, 342 North Water Street, 6th Floor, Milwaukee, Wisconsin 53202.
13. Albuquerque District Office, National Building, Suite 1717, 505 Marquette Avenue, N.W., Albuquerque, New Mexico 87101.
14. Dallas District Office, 400-A Lancaster-Keist Shopping Center, Suite 10, Dallas, Texas 75216.
15. Houston District Office, Federal Building, Room 1101, 2320 La Branch, Houston, Texas 77004.
16. New Orleans District Office, Masonic Temple Building, Room 1711, 333 St. Charles Avenue, New Orleans, Louisiana 70130.
17. San Antonio District Office, 301 Broadway, Suite 200, San Antonio, Texas 78205.
18. Kansas City District Office, 911 Walnut Street, Room 500, Kansas City, Missouri 64106.
19. St. Louis District Office, Locust Building, Room 917, 1015 Locust Street, St. Louis, Missouri 63101.
20. Boston District Office, 150 Causeway Street, Boston, Massachusetts 02114.
21. Buffalo District Office, One West Genesee Street, Room 1020, Buffalo, New York 14202.
22. New York District Office, 90 Church Street, 13th Floor, New York, New York 10007.
23. Newark District Office, 9 Clinton Street, 3rd Floor, Newark, New Jersey 07102.
24. Baltimore District Office, The Rotunda, Room 201, 711 West 40th Street, Baltimore, Maryland 21211.
25. Philadelphia District Office, 219 North Broad Street, 2nd Floor, Philadelphia, Pennsylvania 19107.
26. Pittsburgh District Office, Federal Building, Room 2038A, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222.
27. Washington District Office, 1717 H Street, N.W., Suite 400, Washington, D.C. 20006.
28. Denver District Office, Ross Building, 6th Floor, 1726 Champa Street, Denver, Colorado 80202.
29. Los Angeles District Office, 1543 West Olympic Boulevard, Suite 340, Los Angeles, California 90015.
30. Phoenix District Office, Greater Arizona Savings Building, 112 North Central Avenue, Suite 601, Phoenix, Arizona 85004.
31. San Francisco District Office, 1095 Market Street, Room 701, San Francisco, California 94103.
32. Seattle District Office, Time Square Building, 4th Floor, 414 Olive Way, Seattle, Washington 98101.

§ 1610.5 Request for records.

(a) A written request for inspection or copying of a record of the Commission may be presented in person or by mail to the Commission employee designated in § 1610.7. Requests must be presented during business hours on any workday.

(b) Each request must contain information which reasonably describes the records sought and, when known, should contain a name, date, subject matter and location for the record requested in order to permit the record to be promptly located.

(c) Where a request is not considered reasonably descriptive or requires the production of voluminous records, or necessitates the utilization of a considerable number of work hours to the detriment of the business of the Commission, the Commission may require the person making the request or such person's agent to confer with a Commission representative in order to attempt to verify the scope of the request and; if possible, narrow such request.

(d) When a requested record has been identified and is available, the person who made the request will be notified (1) when and where the record will be made available and (2) the cost assessed for processing the request. Fees for the processing of requests will be made in accordance with the schedule set forth in § 1610.15. Checks shall be made payable to the Treasurer of the United States.

§ 1610.6 Records of other agencies.

Request for records that originated in another Agency and are in the custody of the Commission, will be referred to that Agency for processing, and the person submitting the request shall be so notified. The decision made by that Agency with respect to such records will be honored by the Commission.

§ 1610.7 Where to make request; form.

(a) A request for any material in a district reading room or area as set forth by § 1610.4(b) or a request for existing statistical data, which is not confidential, relating to the case processing of the district office shall be submitted to the district director in charge of such reading room or area at the appropriate address listed in § 1610.4(c).

(b) A district director is authorized to grant a request as to those matters described in paragraph (a). A district director, when granting a request, will do so within 10 working days of its receipt. A district director is not authorized to deny a request, but shall, if he or she believes that good reason exists for not disclosing the data requested, immediately refer the matter to the General Counsel.

(c) A request for any record which is not available under paragraph (a) shall be submitted in writing to the General Counsel, Equal Employment Opportunity

Commission, 2401 E Street, NW., Washington, D.C. 20506.

(d) A request must be clearly and prominently identified as a request for information under the Freedom of Information Act. If submitted by mail or otherwise submitted under any cover, the envelope or other cover must be similarly identified.

(e) When a request is one which by nature should properly be directed to the General Counsel, such request shall not be deemed to have been received by the Commission until the time it is actually received by the General Counsel.

(f) Any Commission official who receives a written Freedom of Information request, unless it be a district director who fills the request, shall promptly forward it to the General Counsel. Any Commission official who receives an oral request under the Freedom of Information Act shall inform the person making the request that it must be in writing and also inform such person of the provisions of this subpart.

§ 1610.8 Authority to determine.

The General Counsel, when receiving a request pursuant to these regulations, shall grant or deny each such request. The decision of the General Counsel shall be final, subject only to administrative review as provided in § 1610.11 of this subpart.

§ 1610.9 Prompt response.

(a) The General Counsel shall either grant or deny a request for records within 10 working days after receipt of the request unless additional time is required for one of the following reasons:

(1) It is necessary to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(2) It is necessary to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) It is necessary to consult with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(b) When additional time is required for one of the reasons stated in paragraph (a), the General Counsel or his designee shall acknowledge receipt of the request within the 10-day period and include a brief notation of the reason for the delay and an indication of the date on which it is expected that a determination as to disclosure will be forthcoming. An extended deadline adopted for one of the reasons set forth above may not exceed 10 additional working days.

§ 1610.10 Responses: form and content.

(a) When a requested record has been identified and is available, the General Counsel shall notify the person making the request as to where and when the record is available for inspection or that copies will be available. The notification shall also advise the person making the request of any assessed fees under § 1610.15 hereof.

(b) A reply denying a written request for a record shall be in writing signed by the General Counsel and shall include:

(1) His name and title;

(i) A reference to the specific exemption under the Freedom of Information Act authorizing the withholding of the record, to the extent consistent with the purpose of the exemption, and a brief explanation of how the exemption applies to the record withheld or (ii) a statement that, after diligent effort, existing requested records have not been found or have not been adequately examined during the time allowed under § 1610.9(a), and that the denial will be reconsidered as soon as the search or examination is complete; (iii) a statement that the denial may be appealed to the Commission within 30 days of receipt of the denial or partial denial.

(c) If a requested record cannot be located from the information supplied, or is known to have been destroyed or otherwise disposed of, the person making the request shall be so notified.

§ 1610.11 Appeals to the Commission from initial denials.

(a) When the General Counsel has denied a request for records in whole or in part, the person making the request may, within 30 days of its receipt, appeal the denial to the Commission. The appeal must be in writing addressed to the Chairman, 2401 E Street, NW., Washington, D.C. 20506 and clearly labeled as a Freedom of Information Act appeal.

(b) The Commission will act upon the appeal within 20 working days of its receipt, and more rapidly if practicable. If the decision is in favor of the person making the request, the decision shall order records promptly made available to the person making the request. The Commission may extend the 20 day period in which to render an appeal for that period of time which could have been claimed and consumed by the General Counsel under § 1610.9 but which was either not claimed or consumed in making the initial determination.

(c) The Commission's action on an appeal shall be in writing signed by the Chairman of the Commission. A denial in whole or in part of a request on appeal shall set forth the exemption relied on, a brief explanation of how the exemption applies to the records withheld and the reasons for asserting it, if different from that described by the General Counsel under § 1610.10, and that the person making the request may, if dissatisfied with the decision on appeal, file a civil action in the district in which the person resides or has his principal place of business, in the district where the records reside, or in the District of Columbia.

(d) No personal appearance, oral argument or hearing will ordinarily be permitted in connection with an appeal to the Commission.

(e) On appeal, the Commission may reduce any fees previously assessed.

§ 1610.13 Maintenance of files.

(a) The General Counsel shall maintain files containing all material required to be retained by or furnished to him under this subpart. The material shall be filed by individual request, indexed according to the exemptions asserted, and, to the extent feasible, indexed according to the type of records requested.

(b) The General Counsel shall also maintain a file open to the public, which shall contain copies of all grants or denials of appeals by the Commission. The material shall be indexed as stated in paragraph (a).

§ 1610.14 Waiver of user charges.

(a) Except as provided in paragraph (b) the General Counsel shall assess fees for the search and, if necessary, duplication of records requested. He shall also have authority to furnish documents without charge, or at a reduced charge, where he determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(b) District directors are hereby authorized to collect fees for duplication of records which are available in the district office reading rooms or otherwise made available at the district office. District directors are hereby authorized to duplicate such records without charge, or at a reduced charge in accordance with the criteria of paragraph (a).

§ 1610.15 Schedule of fees and method of payment for services rendered.

(a) Except as otherwise provided, the following specific fees shall be applicable with respect to services rendered to members of the public under this subpart:

(1) Searching for records, per hour or fraction thereof	$3.60
(2) Other facilitative services and index assistance minimum charge	3.60
(3) Copies made by Xerox or otherwise (per page) (maximum of 10 copies)	.05
(4) Attestation of each record as a true copy	.75
(5) Certification of each record as a true copy, under the seal of the agency	1.00
(6) For each signed statement of negative result of search for record	1.00

(b) While the fees charged for services and copying will in no event exceed those as specified in paragraph (a), the Commission reserves the right to limit the number of copies that will be provided of any document or to require that special arrangements for copying be made in the case of records or requests presenting unusual problems of reproduction or handling.

§ 1610.16 Payment of fees.

(a) Unless a person making a request under the Freedom of Information Act states that he or she will bear all assessed fees levied by the Commission in

searching for and, where applicable, reproducing requested data, said person will be held liable for assessed fees not to exceed $50.00. A request which the Commission expects to exceed $50.00 and which does not state acceptance of responsibility for all assessed fees will not be deemed to have been received until the person making the request is promptly advised of the anticipated fees and agrees to bear them.

(b) A search fee will be assessable notwithstanding that no records responsive to the request or that no records not exempt from disclosure are found.

(c) Fees must be paid in full prior to issuance of requested copies of records. The Commission will inform the person making the request of the exact amount of the assessed fees at the time of granting or denying the request.

§ 1610.17 Exemptions.

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records which are described in 552(b). These categories include such matters as national defense and foreign policy information, investigatory files, internal procedures and communications, materials exempted from disclosure by other statutes, information given in confidence, and matters involving personal privacy.

(b) Section 706(b) of Title VII provides that the Commission shall not make public charges which have been filed. It also provides that (subsequent to the filing of a charge, an investigation, and a finding that there is reasonable cause to believe that the charge is true) nothing said or done during and as a part of the Commission's endeavors to eliminate any alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion may be made public by the Commission without the written consent of the parties concerned; nor may it be used as evidence in a subsequent proceeding. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of section 706(b) shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than 1 year.

(c) Section 709 of Title VII authorizes the Commission to conduct investigations of charges filed under § 706, engage in cooperative efforts with State and local agencies charged with the administration of State or local fair employment practices laws, and issue regulations concerning reports and record-keeping. Section (e) of section 709 provides that it shall be unlawful for any officer or employee of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under section 709 prior to the institution of any proceeding under the Act involving such information. Any officer or employee of the Commission who shall make public in any manner whatever any information in violation of section 709(e) shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than 1 year.

(d) Special disclosure rules apply to the case files for charging parties, aggrieved persons on whose behalf a charge has been filed, and entities against whom charges have been filed. The special disclosure rules are available in the public reading areas of the Commission. Under sections 706 and 709, case files involved in the administrative process of the Commission are not available to the public.

(e) Each executed statistical reporting form required under Part 1602 of this Chapter, such as Employer Information Report EEO–1, etc., relating to a particular employer is exempt from disclosure to the public prior to the institution of a proceeding under Title VII involving information from such form.

(f) The medical, financial, and personnel files of employees of the Commission are exempt from disclosure to the public.

§ 1610.18 Information to be disclosed.

The Commission will provide information to the public in the following matters:

(a) The Commission will make available for inspection and copying some tabulations of aggregate industry, area, and other statistics derived from the Commission's reporting programs authorized by section 709(c) of Title VII where such tabulations have been previously compiled by the Commission and are available in documentary form, to the extent that such tabulations do not consist of aggregate data from less than three responding entities, and do not reveal the identity of an individual or the dominant entity in a particular industry or area in any manner.

(b) All blank forms utilized by the Commission.

(c) All signed contracts, final bids on all signed contracts, and agreements between the Commission and State or local agencies charged with the administration of State or local fair employment practices laws.

(d) All final reports which do not utilize statutorily confidential material in discernible individual form.

(e) All agency correspondence to members of the public, Members of Congress, or other persons not government employees or special government employees, except for matters the making public of which would constitute an invasion of privacy.

(f) All administrative staff manuals and instructions to Staff that affect a member of the public unless the materials are promptly published and copies offered for sale.

(g) All final votes of each Commissioner for every Commission meeting, except for votes pertaining to the filing of suit against respondents until such time as litigation is actually commenced.

§ 1610.19 Deletion of exempted matters.

Where requested records contain matters which are exempted under 5 U.S.C. 552(b) but which matters are reasonably segregable from the remainder of the records, they shall be disclosed by the Commission with deletions. To each such record the Commission shall attach a written justification for making deletions. A single such justification shall suffice for deletions made in a group of similar or related records.

§ 1610.20 Annual report.

The General Counsel shall, on or before March 1, 1975, and annually thereafter, submit a Freedom of Information Act report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate. The report shall include those matters required by 5 U.S.C. 552(d).

§ 1610.21 Other Commission Offices.

(a) The Commission's litigation centers (other than at headquarters) are:

1. Atlanta Regional Litigation Center, 1389 Peachtree Street, NE., Atlanta, Georgia 30309.
2. Chicago Regional Litigation Center, 536 South Clark Street, Room 1012, Chicago, Illinois 60605.
3. Denver Regional Litigation Center, Rio Grande Building, 6th Floor, 1531 Stout Street, Denver, Colorado 80202.
4. Philadelphia Regional Litigation Center, 127 North Fourth Street, 3rd Floor, Philadelphia, Pennsylvania 19106.
5. San Francisco Regional Litigation Center, Fox Plaza, Suite 1010, 1390 Market Street, San Francisco, California 94102.

(b) The Commission's regional offices are:

1. Atlanta Regional Office, Citizens' Trust Building, Suite 1150, 75 Piedmont Avenue, NE., Atlanta, Georgia 30303 (covers Atlanta, Birmingham, Charlotte, Jackson, Memphis, and Miami District Offices).
2. Chicago Regional Office, 600 South Michigan Avenue, Room 611, Chicago, Illinois 60605 (covers Chicago, Cincinnati, Cleveland, Detroit, Indianapolis, and Milwaukee District Offices).
3. Dallas Regional Office, 1100 Commerce Street, Room 5A4, Dallas, Texas 75202, (covers Albuquerque, Dallas, Houston, New Orleans, and San Antonio District Offices).
4. Kansas City Regional Office, 601 East 12th Street, Room 113, Kansas City, Missouri 64106 (covers Kansas City and St. Louis District Offices).
5. New York Regional Office, 26 Federal Plaza, Room 1615, New York, New York 10007 (covers Boston, Buffalo, New York, and Newark District Offices).
6. Philadelphia Regional Office, 127 North 4th Street, 3rd Floor, Philadelphia, Pennsylvania 19106 (covers Baltimore, Philadelphia, Pittsburgh, and Washington District Offices).
7. San Francisco Regional Office, 300 Montgomery Street, Suite 740, San Francisco, California 94104 (covers Denver, Los Angeles, Phoenix, San Francisco and Seattle District Offices).

Signed at Washington, D.C. this 20th day of February 1975.

JOHN H. POWELL, Jr.,
Chairman.

[FR Doc.75-5103 Filed 2-25-75;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 72-231]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Drawbridges in Oregon Where Constant Attendance Is Not Required; Clarification

At the request of the Burlington Northern Railroad and the Spokane, Portland and Seattle Railroad Company, the regulations governing the operation of their drawbridges contained in § 117.740(a)(10) are being rewritten to clarify points of potential confusion. Specifically, the word "commercial" is inserted after "authorized" to identify the type of fishing period meant, and the words, "in the Columbia River Fishery below Bonneville Dam to the jetties at the mouth of the Columbia River as established by the Columbia River Compact (Washington State Department of Fisheries and the Fish Commission of Oregon)," are inserted in lieu of, "as established by the Oregon and Washington State Department of Fisheries."

As this change is editorial in nature and does not change any of the conditions in § 117.740(a)(10), notice of proposed rule making and public procedure are omitted. This change shall become effective in less than 30 days from date of publication in the FEDERAL REGISTER.

For the sake of clarification § 117.759b (f)(10), published in the FEDERAL REGISTER of September 13, 1974 (39 FR 32986) is modified to read as follows:

§ 117.759b Drawbridges in the State of Oregon where constant attendance is not required.

* * * * *

(f) * * *

(10) Burlington Northern, Inc. (Spokane, Portland, and Seattle Railway Company) railroad bridges across the John Day River near Astoria, Blind Slough and the Clatskanie River near Clatskanie. The draws shall open on signal if at least one-hours notice is given. However, the draws shall open promptly on signal from four hours before to four hours after each day's authorized commercial fishing period in the Columbia River Fishery below Bonneville Dam to the jetties at the mouth of the Columbia River as established by the Columbia River Compact (Washington State Department of Fisheries and the Fish Commission of Oregon).

(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 February 26, 1975.

Dated: February 20, 1975.

W. E. CALDWELL,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.75-5091 Filed 2-25-75;8:45 am]

[CGD 74-87]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Longboat Pass, Florida

This amendment changes the regulations for the Longboat Pass bridge between Longboat Key and Anna Maria Key near Bradenton Beach, Florida to require that the draw open on signal from 6 a.m. to 6 p.m. and open on signal if at least 3 hours notice if given from 6 p.m. to 6 a.m. This amendment was circulated as a public notice dated April 29, 1974 by the Commander, Seventh Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CG 74-87) on April 26, 1974 (39 FR 14724). Eight responses were received, one supported the proposal and one had no objection thereto. One response supported the proposal but recommended more restrictive periods, however the periods proposed appear adequate and this recommendation is not considered valid at this time. One response supported the proposal, but recommended that the time during which the draw would open on signal be changed to sunrise to sunset. While this recommendation has merit, it is the Coast Guard's position that the proposed regulations provide for the reasonable needs of navigation. Two responses took no position on the proposal. These two were not considered on the grounds that they were too vague. Two responses objected to the proposal, mainly on the grounds that the construction of a new channel with jetties exiting from Longboat Pass to the Gulf of Mexico may take place in the future, thus increasing the use of this channel. The Corps of Engineers is considering dredging such a channel but has no firm commitments at this time. The Coast Guard will continue to monitor the operation of the Longboat Pass drawbridge. If further changes in the regulations appear necessary, such action will be taken at that time.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new paragraph (i)(3-c) immediately after paragraph (i)(3-b) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(i) *Waterways discharging into Gulf of Mexico east of Mississippi River.*

* * * * *

(3-c) Longboat Pass bridge between Longboat Key and Anna Maria Key near Bradenton Beach, Fla. From 6 a.m. to 6 p.m. the draw shall open on signal. From 6 p.m. to 6 a.m., the draw shall open on signal if at least 3 hours notice is given.

* * * * *

(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 March 31, 1975.

Dated: February 20, 1975.

W. E. CALDWELL,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine, Environment and Systems.

[FR Doc.75-5092 Filed 2-25-75;8:45 am]

[CGD 75-045]

PART 127—SECURITY ZONES

Termination

The security zone at Buttermilk Channel, New York established February 2, 1975 by the Captain of the Port of New York, as published on February 6, 1975 (40 FR 5508) was terminated on February 5, 1975.

§ 127.316 [Deleted]

In consideration of the foregoing Part 127 of Title 33 of the Code of Federal Regulations is amended by revoking § 127.316.

(50 U.S.C. 191; 49 U.S.C. 1655(b); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249; 3 CFR, 1949-1953 Comp. 356, 778, 873, 3 CFR, 1964-1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b))

Effective date. This amendment was effective on February 5, 1975.

Dated: February 19, 1975.

W. E. CALDWELL,
Acting Chief, Office of Marine, Enviromnent and Systems.

[FR Doc.75-5093 Filed 2-25-75;8:45 am]

SUBCHAPTER N—ARTIFICIAL ISLANDS AND FIXED STRUCTURES ON THE OUTER CONTINENTAL SHELF

[CGD 73-177R]

PART 144—LIFESAVING APPLIANCES

Unmanned Platforms

The purpose of these amendments to the regulations concerning life saving appliances on unmanned platforms is to require certain life saving equipment to be readily accessible any time persons are on the platform. Present regulations in 33 CFR Subpart 144.10 require lifesaving equipment only when crews are working continuously for 24-hours.

The Coast Guard proposed these amendments in the January 8, 1974 issue of the FEDERAL REGISTER (39 FR 1360). It was also proposed to delete the word "supervisor" and add the words "person in charge" in 33 CFR 144.01-30, in reference to the person in custody of the first aid kit on each manned platform, and to revise the citation of authority for 33 CFR Part 144.

The proposal resulted from an explosion and fire on the *CHAMBERS and KENNEDY* offshore platform and fire on the *M/V CARRYBACK* in the Gulf of

Mexico on May 28, 1970. Adequate lifesaving equipment was not provided on the platform, and the standby vessel, manned and moored to the platform, could provide no assistance because it was engulfed in flames. As a result, there were 9 deaths: five workmen on the platform, and four men on board the vessel.

Most written comments received on the proposal expressed concern for theft and pilferage of the lifesaving equipment if they were required to be permanently stowed on the platform. This concern resulted from a misinterpretation of the proposal. The intent was only to require lifesaving equipment for each person on the unmanned platform. As a result of the comments, the requirements have been rewritten for clarification.

One commenter suggested that the lifesaving equipment be required to be reflectorized. Although this comment has merit, the Coast Guard decided not to adopt the suggestion at this time because a research and development project is being conducted to review all visual distress aids. Upon completion of the project, the Coast Guard will propose regulations that are considered necessary.

Another commenter suggested that life preservers should be allowed to be stowed on a manned vessel that remains alongside the platform when persons are on the platform. This suggestion was not adopted by the Coast Guard. The intent of the change is to prevent another casualty similar to the *CHAMBERS and KENNEDY/M/V CARRYBACK*, in which the lifesaving equipment was not readily accessible on the platform but was on the attending vessel that was afire.

The second commenter also suggested adding a new paragraph to § 144.10–1 to read as follows: "Unmanned platforms designed to house a single borehole completion and small multi-well platforms are excepted from the requirements of paragraphs (a) and (b) and, in lieu thereof, all personnel are required to wear at all times while on the platform an approved life preserver (Type 1 PFD) or a work vest (Type V PFD)." Since this amendment was not in the proposal, and is a substantive addition, it is not being adopted at this time. After further study and analysis to determine its contribution to safety of life, the Coast Guard, if it accepts the change, will propose the amendment in the FEDERAL REGISTER.

In consideration of the foregoing, the proposed regulations are hereby adopted subject to the clarification discussed above. As adopted, Part 144 of Title 33, of the Code of Federal Regulations, is amended as follows:

1. By revising the citation of authority of Part 144 to read as follows:

AUTHORITY: Sec. 4(e), 67 Stat. 462 (43 U.S.C. 1333(e)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

§ 144.01–30 [Amended]

2. By amending § 144.01–30 by striking the word "supervisor" and inserting the words "person in charge" in place thereof.

3. By revising Subpart 144.10 to read as follows:

Subpart 144.10—Unmanned Platforms

Sec.
144.10–1 Lifesaving equipment.
144.10–10 Other lifesaving equipment.

Subpart 144.10—Unmanned Platforms

§ 144.10–1 Lifesaving equipment.

(a) Except as allowed in paragraph (b) of this section, no person may be on an unmanned platform unless the following lifesaving equipment is readily accessible on the platform:

(1) A life preserver or a Type I—Personal flotation device, listed in Table 1, for each person.

TABLE 1 LIFE PRESERVERS AND EQUIVALENT PERFORMANCE FLOTATION DEVICES

Devices marked	*Equivalent to performance type marked*
160.002 Life preserver...	Type I—Personal flotation device.
160.003 Life preserver...	Type I—Personal flotation device.
160.004 Life preserver...	Type I—Personal flotation device.
160.005 Life preserver...	Type I—Personal flotation device.
160.055 Life preserver...	Type I—Personal flotation device.

(2) A ring life buoy with an attached floating electric water light constructed and marked in accordance with 46 CFR Subpart 161.010, or a Type IV—Personal flotation device, listed in Table 2, with the same attachment, for every two persons, but no more than 4 devices are required.

TABLE 2 RING LIFE BUOYS AND EQUIVALENT PERFORMANCE FLOTATION DEVICES

Devices marked	*Equivalent to performance type marked*
160.009 Ring life buoy...	Type IV—Personal flotation device.
160.050 Ring life buoy...	Type IV—Personal flotation device.

(b) The ring life buoys required in paragraph (a)(2) of this section may be kept on a manned vessel that remains alongside the platform if there is no available space to keep them on the platform.

§ 144.10–10 Other lifesaving equipment.

Any lifesaving equipment on an unmanned platform that is not required in § 144.10–1 must meet the standards contained in Subpart 144.01 of this Part.

(Sec. 4(e), 67 Stat. 462 (43 U.S.C. 1333(e)); sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b))

Effective date. These amendments become effective on March 28, 1975.

Dated: February 20, 1975.

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

[FR Doc.75–5094 Filed 2–25–75;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 126—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES SPECIAL PROGRAMS AND PROJECTS

Financial Assistance to Local Educational Agencies

Notice of proposed rule making was published in the FEDERAL REGISTER on August 13, 1974 (39 FR 28997) which set forth regulations and guidelines for financial assistance to local educational agencies for special programs and projects under section 306 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 844b). Pursuant to section 503 of the Education Amendments of 1972 (Pub. L. 92–318), a public hearing was held on September 30, 1974, in Washington, D.C. However, no comments were received on the proposed regulations and guidelines. One written comment was received and considered as outlined below.

1. *Summary of comments. Comment.* Sections 126.4(b) and 126.8(a)(2) of the regulations and Part 3 of the guidelines should specify the utilization of newspaper general notices as the means to assure participation of persons broadly representative of the cultural and educational resources of the area to be served, and in dissemination to foster the attention and understanding of special audiences and of the general public.

Response. Because of the nature of the innovative and experimental programs funded under section 306 of the Act, local educational agencies are permitted and encouraged to exercise discretion in designing programs. To specify the means of assuring the proper participation in, and the dissemination of the projects would be unduly restricting the exemplary and innovative nature of the projects. No change was made to the regulations or guidelines.

2. *Effective date.* Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations and guidelines have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto should become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

(20 U.S.C. 844b)

(Catalog of Federal Domestic Assistance Program No. 13.516, Preschool, Elementary and Secondary Education—Special Programs and Projects (Title III, Section 306))

Dated: January 23, 1975.

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

Approved: February 14, 1975.

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

Title 45 of the Code of Federal Regulations is amended by adding a new Part 126 reading as follows:

PART 126—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING—SPECIAL PROGRAMS AND PROJECTS

Sec.

126.1 Applicability.
126.2 Definitions.
126.3 Program purpose and availability of funds.
126.4 Applications for grants.
126.5 Maintenance of fiscal effort.
126.6 Participation by private school children.
126.7 Projects for handicapped children.
126.8 Criteria for review of project applications.
126.9 Review of project proposals by State educational agency.
126.10 Grants involving construction.

AUTHORITY: Secs. 301–309 of Pub. L. 89–10, as amended by Sec. 131(a)(1) of Pub. L. 91–230, 84 Stat. 130–140 (20 U.S.C. 841–847a), unless otherwise noted.

§ 126.1 Applicability.

(a) The provisions contained in this part are applicable to grants to local educational agencies for planning and establishing special programs and projects, supplementary educational centers and services and guidance, counseling, and testing programs pursuant to section 306 of title III of the Elementary and Secondary Education Act of 1965. Regulations applicable to grants to States pursuant to title III of the Act are contained in part 118 of this title.

(b) Assistance provided under this part is subject to applicable provisions contained in Subchapter A of this chapter (General Provisions for Office of Education Programs) relating to fiscal, administrative, property management and other matters.

(20 U.S.C. 844b)

§ 126.2 Definitions.

As used in this part:

"Act" means the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, as amended.

"Children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental asphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

(20 U.S.C. 843(b)(3), 844b(b))

"Construction" means (a) the erection of new or the expansion of existing structures, and the acquisition and installation of equipment therefor; (b) the acquisition of existing structures not owned by the agency making application for assistance under the Act; (c) the remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (d) a combination of any two or more of the foregoing.

(20 U.S.C. 844b, 881(b))

"Cultural and educational resources" includes State educational agencies, institutions of higher education, private schools, public and nonprofit private agencies such as libraries, museums, musical and artistic organizations, educational radio and television, and other cultural and educational resources.

(20 U.S.C. 844(a), 844b)

"Dissemination" means communications with people about the operation and outcomes of demonstrations of exemplary practices in education in order to facilitate the adoption and replication of tested educational innovations in the host school system and other school systems in the State.

(20 U.S.C. 843(c)(3), 844b)

"Exemplary," as applied to an educational program, project, service, or activity means one designed to serve as a model for a regular school program.

(20 U.S.C. 843(b)(2), 844b)

"Handicapped children" means those children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired and who by reason thereof require special education and related services. The term includes children with specific learning disabilities to the extent that such children are health impaired children who by reason thereof require special education and related services.

(20 U.S.C. 844b(b))

"Innovative," as applied to an educational program, project, service, or activity means one utilizing new or improved ideas, practices, or techniques.

(20 U.S.C. 843(b)(3), 844b)

"Local educational agency" or "local education agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. The term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school, including a State operated school for the deaf, blind, mentally retarded, emotionally disturbed or crippled. "Service Function" as used in this paragraph means an educational service which is performed by a legal entity—such as an intermediate agency—whose jurisdiction does not extend to the whole of the State and which is authorized to provide consultative, advisory or educational program services to public elementary or secondary schools, or which has regulatory functions over agencies having administrative control or direction of public elementary or secondary schools, rather than a service which is performed by a cultural or educational resource.

(20 U.S.C. 844b, 881(f))

"Private school" means a nonprofit school which is operated or controlled by other than a public authority, and which complies with State compulsory school attendance laws or is otherwise recognized or accredited by some procedure customarily used in the State as having curricula similar to that required of comparable public schools.

(20 U.S.C. 843(b)(4), 844(b)(2)(B), 844b, 845(f))

"Seriously emotionally disturbed children" means (a) Those children who exhibit one or more of the following characteristics over a long period of time and to a marked degree:

(1) An inability to learn that which cannot be explained by intellectual, sensory, or health factors;

(2) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

(3) Inappropriate types of behavior or feelings under normal circumstances;

(4) General pervasive mood of unhappiness or depression; and/or

(5) A tendency to develop physical symptoms, pains, or fears associated with personal or school problems.

(b) This term does not include those children who are socially maladjusted.

(20 U.S.C. 843(b)(3), 844b(b))

"State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(20 U.S.C. 844b, 881(k))

"Testing," in relation to activities undertaken pursuant to section 303(b)(4) of the Act means the use of tests which measure abilities from which aptitudes for an individual's educational or career development may be validly inferred.

(20 U.S.C. 843(b)(4), 844a(b)(1)(B)(i), 844b)

§ 126.3 Program purpose and availability of funds.

(a) *Amounts not available to the State.* From the amount allotted to any State under section 302 of the Act for any fiscal year which is (1) not available to that State under a State plan fully or partially approved by the Commissioner pursuant to section 305 of the Act, or which is (2) not available to that State because there is no approved State

plan, the Commissioner may make grants to local educational agencies in such State for programs, or projects (including programs or projects for handicapped children) which meet the purposes and requirements of section 306 of the Act and the regulations in this part.

(b) *Amounts not required by the State.* The amount of any State's allotment under title III of the Act for any fiscal year which the Commissioner determines will not be required by such State for the period for which that amount is available shall be available for grants pursuant to section 306 of the Act in such State. If the Commissioner further determines that such amount is not needed in such State for grants pursuant to section 306 of the Act, that amount may, in the Commissioner's discretion, either be used for grants pursuant to section 306 of the Act in other States or reallotted to other States pursuant to section 302(c) of the Act. Grants from allotments made pursuant to this paragraph may be made during the fiscal year of the original allotment and the succeeding fiscal year.

(20 U.S.C. 842 (c) and (d), 844b, 845)

§ 126.4 Applications for grants.

A local educational agency shall file an application which, in addition to meeting the requirements contained in Subpart A of this Chapter (General Provisions for Office of Education Programs), shall contain or have attached thereto:

(a) A description of a program or project for carrying out one or more of the purposes described in section 303 of the Act (including, in the case of an application submitted by a local educational agency located in a State which has a State plan approved under section 305 of the Act, a description of how the project holds promise of making a substantial contribution to the solution of critical educational problems common to all or several States);

(b) A description of the policies and procedures which assure that in the planning of the project there has been, and in the establishment and carrying out thereof there will be, participation of persons broadly representative of the cultural and educational resources of the area to be served, including persons representative of the interests of potential beneficiaries;

(c) An assurance that the services for which funds under section 306 of the Act are sought will be administered by or under the supervision of the applicant;

(d) A description of (1) such methods of administration as are necessary for the proper and efficient operation of the project, (2) such fiscal control and accounting procedures as are necessary to assure proper disbursement of, and accounting for, Federal funds paid to the local educational agency under section 306 of the Act, and (3) the program accountability procedures to be used in the assurance of performance quality during the project period through the implementation of procedures and techniques such as: community involvement, technical assistance, needs assessment, change strategies, management systems, performance objectives, performance budgeting, performance contracting for services, staff development, comprehensive evaluation, program audit and cost-effectiveness analysis.

(e) A description of the policies and procedures to assure that Federal funds made available under section 306 of the Act for a specified budget period will be so used to supplement and, to the extent practical, increase the level of funds that would be in the absence of such Federal funds, be made available by the applicant for the purposes described in section 303 of the Act, and in no case supplant such funds;

(f) A description of how the program or project will provide for the genuine and meaningful participation of private school children as required by § 126.6; and

(g) A description of the facilities available for the project and the use to which they will be put. If the project will involve construction or leasing of facilities, the proposal shall specify how such activity is consistent with, and why it is necessary to, the efficient operation of the proposed educational program.

(20 U.S.C. 843, 844, 844a, 844b)

§ 126.5 Maintenance of fiscal effort.

No payments shall be made to a local educational agency under section 306 of the Act unless the Commissioner finds that the combined fiscal effort of such agency and the State in which it is located with respect to the provision of free public elementary and secondary education by that agency for the fiscal year preceding the fiscal year for which assistance is sought under such section was not less than such combined fiscal effort for that purpose for the second fiscal year preceding the fiscal year for which such assistance is sought. For the purposes of this section, combined fiscal effort shall be deemed to be maintained if current expenditures per pupil for elementary and secondary education of a local educational agency from State and local funds (determined on either an aggregate or a per pupil basis) for such preceding fiscal year equal or exceed such expenditures for such second preceding fiscal year. In the event of a decrease of current expenditures (determined on both an aggregate and a per pupil basis), the Commissioner will determine whether the maintenance of effort requirements have been fulfilled based upon consideration of the causes for such decrease (including such factors as changes in the value or availability of economic resources (tax bases) from which such expenditures are funded beyond the control of State or local authorities).

(20 U.S.C. 844b, 845(e))

§ 126.6 Participation by private school children.

(a) In each project approved under section 306 of the Act, provision shall be made for the effective participation in the project, on an equitable basis, of children enrolled in private schools in the areas to be served whose educational needs are of the type which the project is designed to meet. The number of such children to be served, in relation to the total number of such children with educational needs of the type the project is designed to meet shall be consistent with the number of public school children to be served, in relation to the total number of public school children in the area served with educational needs of the type the project is designed to meet.

(b) Whenever practicable, educational services shall be provided to private school children on publicly controlled premises. Any project to be carried out in public facilities and involving joint participation by children enrolled in private schools and children enrolled in public schools shall include such provisions as are necessary to avoid the separation of participating children by school enrollment or religious affiliation.

(c) Provisions for serving private school children shall not include: (1) The payment of salaries to teachers or other employees of private schools except for services performed outside regular hours of duty and under public supervision and control, (2) financing of the existing level of instruction in private schools, (3) the placement of equipment on private school premises other than portable or mobile equipment which is capable of being removed from the premises each day and is used solely for title III purposes, (4) the construction of facilities for private schools; or (5) the use of funds for religious worship or instruction.

(d) Every project application submitted by a local educational agency under § 126.4 shall describe how the local educational agency will fulfill the requirements of paragraphs (a), (b), and (c) of this section. This description shall contain information indicating: (1) The number of private schools in the area to be served by the project and the number of children enrolled in such schools in the grades to be served by the project and the number of such children who have the needs to be served by the project; (2) the existence of any factors which limit the appropriateness of the project for private school children; (3) the manner in which and the extent to which representatives of private school children participated in the development of the project proposal (including participation in the determinations required under paragraph (d) (2) of this section); (4) the provisions which have been made for effective liaison with representatives of private school children in regard to operation and review of the project; (5) the places at which and methods by which private school children will be served in accordance with the requirements of paragraphs (b) and (c) of this section; and (6) the differences, if any, in the kind and extent of services to be provided private school children as compared with those to be provided public school children, and the reasons for

such differences. Services provided to children on private school premises must not inure to the benefit or enrichment of the institution.

(20 U.S.C. 844(b)(2)(B), 844b, 845(f)(1), 885)

§ 126.7 Projects for handicapped children.

The Commissioner shall, on the basis of reviews of project proposals submitted for approval, ensure that 15 percent of the funds granted under section 306 of the Act in any fiscal year will be used for projects which are designed to demonstrate solutions to critical problems in the education of handicapped children, by meeting their special educational needs.

(20 U.S.C. 844b(b))

§ 126.8 Criteria for review of project applications.

In addition to the factors set forth in § 100a.26 of this chapter, the criteria to be applied by the Commissioner in reviewing project applications from local educational agencies shall be the extent to which there is/are:

(a) Documentation that in the planning of the project there has been, and in the operation and evaluation of the project there will be:

(1) Utilization of the best available talents and resources and;

(2) Participation of teachers, students, parents, school administrative personnel, private nonprofit school representatives, and other persons including those with low income, broadly representative of the cultural and educational resources of the area to be served;

(b) Evidence that the project is designed to demonstrate solutions to critical educational needs as identified and described by the applicant and will substantially increase the educational opportunities of children in the area to be served;

(c) Provisions for the development of concepts, practices, and techniques which can be adapted or adopted elsewhere;

(d) Promising concepts or practices recognized as unique, original, innovative or exemplary;

(e) Evidence that the project activities will facilitate the achievement of performance objectives;

(f) An awareness of information concerning similar programs, relevant research findings, and views of recognized experts;

(g) Provisions for budgeted expenditures for adequate and appropriate facilities, equipment, and materials which make a direct contribution to facilitating the achievement of the stated objectives; and

(h) An evaluation which in addition to meeting the requirements of § 100a.26(b)(8)(ii) of this chapter, will provide evidence of the extent to which performance of the participants is improved.

(i) Additional criteria, in the form of the national priorities, may be published in the FEDERAL REGISTER from time to time.

(20 U.S.C. 844, 844b) (Sen. Report No. 91-634, 91st Cong. 2d Sess. p. 28 (1970))

§ 126.9 Review of project applications by State educational agency.

(a) The Commissioner shall not approve a project application from a local educational agency unless the application has first been submitted to the appropriate State educational agency for review and recommendation, by qualified personnel, with respect to the action to be taken by the Commissioner regarding the disposition of the proposal.

(b) Applications involving the handicapped shall be submitted to the appropriate State educational agency personnel responsible for education of handicapped children for review and recommendations.

(c) In order to afford State educational agencies a reasonable opportunity to review and make recommendations, the Commissioner will not take final action with regard to any project application until 30 days after the applicable closing date established for the filing of project applications by a local educational agency as published in the FEDERAL REGISTER unless the State educational agency agrees to a shorter review period.

(20 U.S.C. 844b)

§ 126.10 Grants involving construction.

(a) *General provisions.* (1) An application, submitted under section 306 of the Act by local educational agencies for programs or projects which involve construction, may be approved by the Commissioner only if it meets the applicable requirements of Subchapter A of this chapter (General Provisions for Office of Education Programs), in addition to the other applicable requirements of this part. (2) The applicant must provide satisfactory assurances required by section 304(a)(4) of the Act such as that upon completion of the construction, title to the facilities will be in and retained by a State or local educational agency, and the building will be operated and used for the educational and related purposes for which it was constructed for a period of not less than 20 years.

(20 U.S.C. 844(a)(4), 844b, 847)

(b) *Recovery of payments.* If within 20 years after the completion of any construction undertaken pursuant to a grant under section 306 of the Act (1) the owner of the facility shall cease to be a State or local educational agency, or (2) the facility shall cease to be used for the educational and related purposes for which it was constructed, the United States shall be entitled to recover all or a portion of the Federal funds used to pay for such construction, in accordance with the provisions of section 308 of the Act.

(20 U.S.C. 844b, 847)

GUIDELINES, TITLE III, ELEMENTARY AND SECONDARY EDUCATION ACT, SECTION 306, SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES; GUIDANCE, COUNSELING, AND TESTING—SPECIAL PROGRAMS AND PROJECTS

CHAPTER I—INTRODUCTION

PART 1—GUIDELINES

Sec.
1.1 Scope of guidelines.

CHAPTER II—GENERAL INFORMATION FOR THE APPLICANT

PART 1—PROGRAM INFORMATION

1.1 National priorities.
1.2 Planning considerations.
1.3 Length of project period.

PART 2—APPLICATION PROCESS

2.1 Federal and State title III support.
2.2 State education agency review.
2.3 Final approval.

CHAPTER III—PROGRAM DESIGN AND MANAGEMENT

PART 1—MANAGEMENT PROCESS

1.1 Effective program management.
1.2 Selection of the project director.
1.3 Management functions of the project director.

PART 2—MANAGEMENT AND ACCOUNTABILITY

2.1 An accountability model.
2.2 Particularly relevant factors.
2.3 Factors receiving lesser emphasis.

PART 3—DISSEMINATION

3.1 Importance of dissemination.
3.2 Linkage of evaluation and dissemination.
3.3 Planning for dissemination of results.
3.4 Relationship with the Office of Education.

CHAPTER I—INTRODUCTION

PART 1—GUIDELINES

1.1 *Scope of guidelines.* (a) These guidelines are recommendations and suggestions for meeting the legal requirements which apply to Federal assistance under the Elementary and Secondary Education Act, Title III, section 306. The legal requirements include the Act itself (20 U.S.C. 841–847a) and the regulations (45 CFR 126). The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

(20 U.S.C. 844b, 113 Cong. Rec. 5938, 5939 (daily ed. May 23, 1967); *United States v. Jefferson County Board of Education*, 372 F. 2d 836, 857 (1966))

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is section 306 of the Act (20 U.S.C. 844b) and the guideline affects § 126.1 of the regulations (45 CFR 126.1) the following citation will be placed on the line immediately following the guideline: (20 U.S.C. 844b); (45 CFR 126.1). If no particular section of the regulations is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a))

CHAPTER II—GENERAL INFORMATION FOR THE APPLICANT

PART 1—PROGRAM INFORMATION

1.1 *National priorities.* Periodically, the Office of Education will establish and publish in the FEDERAL REGISTER a number of national priorities to guide local education agencies in their development of projects. In determining these priorities, the Office will consult such agencies as other Federal Departments, State departments of education, local education agencies, institutions of higher education, educational policy groups, and representatives of various minority groups. Some States may wish to suggest priorities among these national areas of concern to better serve the particular interests of the State as well as to focus on national needs.

(20 U.S.C. 843, 844b); (45 CFR 126.3, 126.8)

1.2 *Planning considerations.* (a) Persons broadly representative of the cultural and educational resources of the area, including parents and youth, should participate in planning, implementing, and evaluating these programs. Parents of children in the projects may also be directly served by project activities, such as by an instructional program related to that of their children.

(20 U.S.C. 844(a), 844(b); (45 CFR 126.4(b), 126.8(a)(2))

(b) Since the primary purpose of this program is to test the appropriateness of specific solutions to critical national educational needs, each project may choose to focus its resources on a limited number of students rather than try to serve directly all students who might benefit from the project.

(20 U.S.C. 844b(a)); (45 CFR 126.3)

1.3 *Length of project period.* Projects are generally supported for periods ranging from 1 to 3 years. The determination of the funding period will be based upon such considerations as whether the proposed project falls in the development or replication phase of educational innovation, whether a given school system and community are considered generally receptive or resistant to change and the availability of annual appropriations.

(20 U.S.C. 844b); (45 CFR 126.3)

PART 2—APPLICATION PROCESS

2.1 *Federal and State Title III support.* Local education agencies intending to submit a proposal for possible funding under title III of the Act should make a choice between submitting it to the State education agency under the State plan program of title III or to the Office of Education for consideration under title III, section 306. This procedure does not preclude the possibility of joint funding of a project under both title III programs, in which case separate projects proposed to the Office of Education and the State education agency would represent different segments of a comprehensive local educational plan.

(20 U.S.C. 841–47); (45 CFR 126.1, 126.3)

2.2 *State education agency review.* (a) Each State is asked to (1) provide to the Commissioner comments and recommendations on projects submitted from that State, and (2) rank in priority order the most promising projects for support.

(b) The local educational agency should submit projects involving the education of handicapped children to the State Director of Special Education for review, and his recommendations conveyed to the Commissioner, together with the recommendations of other State agency staff.

(20 U.S.C. 844b); (45 CFR 126.9)

2.3 *Final approval.* During the review of the application by the U.S. Commissioner one or more representatives of the U.S. Office of Education (U.S.O.E.) may make a site visit to a local education agency whose application has been tentatively selected. During that visit, the U.S.O.E. representatives will meet the local education agency personnel and project planners to review project planning and development or installation strategies. Final selection and funding will be based upon the application review and the findings of the site visit.

(20 U.S.C. 844, 844b); (45 CFR 126.8)

CHAPTER III—PROGRAM DESIGN AND MANAGEMENT

PART 1—MANAGEMENT PROCESS

1.1 *Effective program management.* The development of a project in a local education agency provides the opportunity to apply modern management processes. The local education agency should first be firmly committed to the development and utilization of an effective management system. Such a system is appropriate regardless of the size or nature of the project, be it limited in scope and requiring a relatively low level of support or be it comprehensive and requiring a large expenditure of funds. From a management viewpoint, it is advisable in many instances that the project be viewed as a subsystem within the total school system, serving a well-defined target area and requiring identified resources from the local education agency at specified points during the project's schedule of operation.

1.2 *Selection of the project director.* (a) The project director, i.e., the educational manager, should be experienced in acting as an educational change agent, in stimulating people to get things done, in making decisions, in evaluating educational programs, and in using outside resources to strengthen the school's capability to solve educational problems.

(b) The project director should also possess managerial skills which will enable him to identify systematically the various functions and/or tasks comprising the project. Borrowing from or employing a systems-analysis approach, he should take the following steps.

(1) Identify the problem.
(2) Analyze the problem.
(3) Consider alternate solutions.
(4) Determine strategy.
(5) Implement the project.
(6) Evaluate the project.

(c) Within the scope of overall school policy, the project director has the task of establishing both the framework and the methodology for planning and organizing, installing and operating, communicating, and evaluating the project. These functions, which are described in detail below, comprise only one way to categorize a management system. Each project director should determine the management system best suited to his project and the one that will enable him to act successfully as the chief coordinator of project activities. Efforts to identify a suitable candidate for the position of project director should be initiated during the planning phase before submission of the application in order that the person may be hired as soon as its approval is announced.

1.3 *Management functions of the project director*—(a) *Planning and organizing.* (1) An initial concern of the project director is the analysis of the problem. The purpose of the analysis of the problem is the development of clear and appropriate objectives which state what should be accomplished and the performance criteria which will be used to measure attainment of the objectives. Section 2.2 (a)(4) of Part 2 of this Chapter on Performance Objectives explains their essential elements.

(2) After the initial needs assessment has been conducted and objectives have been established, the project director and project planners should determine what components and activities will be needed to accomplish the objectives of the project. Various management tools can help the project director plan a strategy and build an organization for an effective program. Some of the management tools currently used in business, industry, and education are Program Evaluation and Review Techniques (PERT), Critical Path Method (CPM), and Line of Balance (LOB). Charts showing work-breakdown structures, work-flow networks, staff-line relationships, time lines (with milestone events identified), and monthly rate of expenditures can help planners analyze all the constituent parts of a project. These management products also serve as effective communication media for all personnel involved in the planning process.

(b) *Installing and operating.* (1) The effective installation of an innovative project depends in large measure on the quality of the planning. When planning is well done, the objectives and the procedures and management processes for meeting those objectives are clearly delineated. The project director's task then becomes that of installing and operating according to the plans and of providing management decisions to keep the program moving toward its stated objectives on schedule and within cost limitation. One of the critical tasks of the project director is staffing the positions provided for by the organization structure. Management activities include appraising and selecting candidates for positions and providing necessary training for personnel. Project directors should determine the policies and procedures they expect to follow for recruiting, selecting, training, and promoting project staff members.

(2) One of the major causes of operational delays is the lack of proper facilities (housing and equipment) at the time they are needed. Lead time must be charted carefully for the delivery and availability of each major item. The execution of the policies and procedures to install and/or modify the facilities should begin at the earliest practical date, and plans should be made for facilities to house the project adequately.

(3) Timely decision-making and clear delegation of decision-making authority are other critical elements. The local education agency should clearly establish the extent of management authority which has been delegated to the project director and procedures to insure that the project director maintains sufficient authority to manage the project effectively. The project director should also establish procedures through which he can take prompt corrective action when problems arise in project operation.

(c) *Communicating.* (1) The control of an operating program depends on timely, relevant, and valid feedback of information so that problems can be readily identified, alternate solutions considered, and decisions made and implemented. Project directors should establish an effective internal communication system so that timely feedback information is reported by and to project staff, regular school staff, and the project community council. The information-feedback system should be a process by which information about past and present performances is used to influence future performance. The communication system should also be linked to procedures for utilizing the information.

(2) Various reporting formats should be developed to provide the project director and

staff with information relating to the performance objectives, activity and event sequences, and schedules and costs. The reports may be needed on a daily, weekly, monthly, quarterly, or yearly basis. They should be designed to show present status, problem areas, and the permissible deviation limits. In addition to an internal communication system, the project director should determine what types of dissemination techniques should be used to inform the larger public of the project's achievements. For additional information, see Part 3 of this chapter on Dissemination.

(d) *Evaluating.* The project director is responsible for insuring that an adequate evaluation design has been developed for each project component and for the overall project and that provisions have been made for timely feedback of evaluation findings to appropriate personnel. An evaluation of the project is necessary to determine how well each component and the entire project function within the established framework of time, cost, and performance objectives. Section 2.2(a)(5) of Part 2 of this Chapter below on Evaluation Design explains in detail the elements involved. In addition, § 2.2 (a)(6) of Part 2 of this Chapter on the Educational Program Audit explains the essential elements of the audit and its relationship to the evaluation.

(20 U.S.C. 844a(b)(2)(b), 844b); (45 CFR 126.4(g), 126.10)

PART 2—MANAGEMENT AND ACCOUNTABILITY

2.1 *An accountability model.* (a) Effective management should enable project planners to design and implement goals and activities based on careful needs assessment and to determine the results achieved among all project participants. Accountability, therefore, depends upon good management.

(b) This section describes a quality control (accountability) model which will enable local education agencies to design and implement projects having specified goals and the means to determine their achievement. Eleven factors have been identified in this model as worthy of consideration in its implementation: community involvement, technical assistance, assessment of needs, performance objectives, evaluation design, educational program audit, staff development, change strategies, performance contracting, performance budgeting, and cost effectiveness.

2.2 *Particularly relevant factors.* (a) Of the eleven accountability factors, those considered particularly relevant to the development and implementation of an effective management system are as follows:

(1) *Community involvement*—(i) *Introduction.* The Commissioner recommends that representatives of all segments of the community be involved in the planning, development, operation, and evaluation of projects and that a formal community council consisting of these representatives be established for each project. The development of an effective structure of involvement will require extensive and careful planning on the part of each district. No single model is appropriate for all districts, and these guidelines do not propose a specific model. The Commissioner invites the establishment of channels of communication between the chairman of the community council and the Office of Education program officer regarding any aspects of the project's development and operation.

(ii) *General community participation.* Recognition of the competence and interest of a variety of groups both within and outside of the schools in planning and operating project activities should result in programs which can best meet the needs of the target population and sustain the interest and support of the community. The degree to which applicants develop an effective structure of broadly based participation will be an important determinant in the ultimate success or failure of their section 306 projects. Special emphasis should be given to plans for the participation of students and youth. Encouraging youth to originate and carry out ideas for increasing their role and participation in school and community activities and giving them opportunities to share responsibility with adults and to work with their peers and adults in a variety of relationships should reduce student alienation from the schools.

(iii) *Community council*—(a) *Formation.* It is recommended that a formal community council be formed for each Title III, section 306 project and that it include representatives from each of the following groups in the percent of the total as indicated:

(1) Appropriate school staff—both in the central administrative office and within the selected target schools (25 percent);

(2) Students and youth from the potential target population, and other students and youth considered to have relevant knowledge (25 percent); and

(3) Parents and other residents of the target area community, including representatives of nonprofit private schools and other persons broadly representative of the cultural, educational, business and government resources of the area to be served (50 percent).

(b) *Membership.* Additional council members may be drawn from among the following:

(1) Community groups such as social agencies, religious institutions, youth organizations, local community action groups, business and labor organizations, and municipal government offices;

(2) Other Federal or State programs such as the Model Cities Program of the Department of Housing and Urban Development, the Manpower Training Program of the Department of Labor, and the Head Start, Follow Through, and Bilingual Education Programs of the Department of Health, Education, and Welfare;

(3) Colleges and universities; and

(4) Business and industry.

(c) *Council size and organization.* While the community council must be large enough to represent several groups and interests, care should be taken to keep the membership limited enough for efficient operation. A single council will best serve the needs of the project in some cases, particularly small school systems, but other patterns of organization may be necessary to allow direct participation by larger numbers of people than is possible with a single council structure. For example, an advisory council may be designated for each target school, allowing participation at the grass roots level in the planning and operation of project activities for particular schools. In turn the central council, composed of one or more representatives elected by each of the target school councils, should be established to coordinate the project for all schools.

(d) *Selection of members.* When a school district decides to develop an application, it should form an ad hoc community council on a volunteer or appointive basis. Council officers should be selected by the council members. Such a group should then be appropriately modified, expanded, or established through more formal selection procedures as the project is developed. One approach to council formation would be to request that groups of administrators, teachers, parents, and students select their own representatives according to procedures which they determine. Although time consuming, holding formal elections within the community and the schools may be of great value both for the experience gained by those who plan and conduct the elections and for the widespread awareness of the project which will result.

(e) *Definition of roles.* The roles of the community councils in project planning and activities may vary substantially and should be defined in writing in order that there be a clear understanding of the council members' functions and roles and the extent of their decision-making authority in such areas as the identification of the target population and the assessment of the needs of that population, the determination of project priorities, the writing and review of all applications to be submitted, the selection of project personnel, recommendations for program changes once the project is underway, and evaluation of the operation and results of the project. The early establishment of precise, written guidelines concerning the relationship of the council to those with legal responsibility for the schools, and open discussion and dissemination of these relationships will help to avoid the misunderstandings and conflicts which commonly result from a lack of clear definition of roles and responsibilities.

(f) *Council functions.* Care should be taken to assure that the community councils have specific and meaningful functions during all stages of project development and operation. The designation of these functions should be arrived at through open discussion between the school district staff responsible for project development and the council members. Each council should play an active part in planning and implementing the project rather than serving merely to certify or approve what has already been decided or accomplished, and each representative should be recognized for the unique contributions and resources he can bring to the project. The following list is suggestive of the possible variety and scope of community council functions and responsibilities:

(1) Assistance in program planning, including the identification of the target population, the assessment of needs, and the selection of project activities and priorities. The application should be developed with the expectation that program ideas will emerge from a current examination and analysis of the local problem by a broadly representative planning group;

(2) Participation in the establishment of criteria for the selection of project personnel and the interviewing and screening of prospective staff members;

(3) Recruitment of volunteers and assistance in the mobilization of community resources;

(4) Assistance in staff development programs for project staff, school personnel, and community representatives;

(5) Assistance in program evaluation activities;

(6) Service as a channel for complaints and suggestions for program improvements;

(7) Assistance in the dissemination of information about the project throughout the community; and

(8) Coordination of the project with the entire local education agency, with other community groups, with professional organizations, and with public and private agencies.

(iv) *Other approaches to community participation—Introduction.* Each school district should also develop other channels of community involvement as part of the total section 306 program effort. The following illustrations encompass only a few of the wide variety of potential innovations which might be included as actual project components to be supported financially with project funds

or which might be coordinated with and supportive of other project activities.

(a) *Student involvement*—(1) Because a major factor cited by students for their disenchantment with school is disinterest in a curriculum which they view as boring and irrelevant, many programs should focus on curriculum modification. Efforts to restructure curriculum focus on content and methodology, and these range from the redesign of existing courses and traditional subjects to the introduction of entirely new curriculum areas. Among some of the more promising recent curriculum efforts are those in which students have had a major voice and have occupied a joint role as both the objects and the agents of an improved instructional program. In some instances, students are serving as advisers to teachers and department heads responsible for curriculum revision; while in others, working closely with teachers as resource persons, students themselves have developed and conducted complete courses, selected the materials and instructors, and arranged for speakers and outside consultants to assist them.

(2) Student advisory roles to school faculties, administrators, and boards of education should be an integral part of all section 306 projects. They give students a greater understanding of the complexities of school operations and an opportunity to identify, study, and discuss school problems, make recommendations, and help to implement solutions. As part of their responsibilities, such youth advisers should report their activities through various school media and thus help to create a better informed and more concerned student body.

(3) Additional opportunities for student participation in school and community-related experiences can be provided through work-study programs. In addition to local businesses and industries, project planners should consider community agencies, municipal government offices, and the schools themselves as potential placement sources for student training, work experience, and part-time paid positions. Within the schools, students should serve as classroom and library aides, tutors to other students, assistants in the operation of school stores and after-school and evening study groups or recreation centers, and apprentices in the building maintenance, food, clerical, and audio-visual supportive services.

(b) *Involvement of parents and other adult community residents.* (1) Parents and other adult residents of the community should similarly be given opportunities for program participation in addition to their representation on the community council. Many of the roles suggested for students—participating in curriculum development and serving as advisers and consultants to teachers, administrators, and school boards, and disseminating their activities to the community—are equally appropriate for all adults, while other activities are suited uniquely to the interests and resources of parents.

(2) Interaction between parents and project staff—in homes, classrooms, and elsewhere—can help parents learn how they may best support and influence their children's education by reinforcing the goals of the program. Such interaction, accomplished through home visits, orientation sessions, workshops, and other methods, assists the project staff in becoming more responsive to the needs and goals of the parents and community and in becoming more able to translate their goals into project activities.

(3) Instructional activities should be open to parent observers at reasonable and convenient times, and parents should be encouraged to observe classes periodically during the school year. Some activities might be conducted in the evening so that parents who work during the day may have an opportunity to observe the project in operation. Parental involvement should also take the form of educational programs designed to familiarize parents with the school curriculum or with specific project activities and to instruct them in the use of materials and techniques by which they might supplement and reinforce their children's classroom instruction at home.

(4) Paraprofessional roles for parents and other adults serve to provide additional job opportunities within a project target area and to strengthen rapport between the schools and community. Most important, however, are the direct benefits to students, since community residents employed as paraprofessions may be highly effective in communicating with students. Appropriate functions for paraprofessionals in projects may include services to both students and parents, such as handling attendance and health problems, interpreting the school program to the community, encouraging increased parental visits to the schools and participation in school activities, helping parents to find community and agency resource assistance in solving family problems, assisting classroom teachers, counseling and tutoring students, and organizing and supervising field trips and other school day and after-school activities.

(2) *Technical assistance*—(i) *Introduction.* "Technical assistance" for the purposes of this discussion is the use of other resources than those of the applicant to provide expertise in such areas as planning, developing, managing, operating, evaluating, and disseminating information. The use of such outside resources in these areas is a local decision; the use of technical assistance in conducting an educational audit of the project is extremely important. The purpose of the use of outside resources is to help the local education agency strengthen its capabilities to achieve the performance objectives stated in its proposed project.

(ii) *Resources for technical assistance.* Technical assistance may be provided by industry, business, labor, private and nonprivate organizations, colleges and universities, service clubs, community service groups, regional educational laboratories, research and development centers, State education agencies, other local education agencies, the U.S. Office of Education, other Federal agencies, employment bureaus, and other groups or organizations with the needed expertise. Because of their familiarity with improved techniques of management and quality control, business and industrial resources may be particularly helpful to local education agencies in improving their program management operations.

(iii) *Determining the need for technical assistance.* (a) The assessment of local education agency resources for the development and implementation of an educational program is a continuous and essential responsibility of program planners. The skill with which the program planners determine where technical assistance is needed and who will be selected to provide it is as important as the contribution of a technical assistance agency.

(b) The needs assessment, for example, may indicate that special efforts beyond the capability of the local school system should be made by an outside group in areas such as the following: improving the instructional program, strengthening the school management system, strengthening the staff's ability to write measurable and relevant objectives, and developing effective instruments and evaluation designs for programs. In clarifying the areas where technical assistance is needed, the local education agency should define each problem, state the performance objectives to be achieved, and describe the general scope of the work involved. Once this is done for each problem, the local education agency will be able to determine more effectively the priorities among the various problem areas and separate those which will require outside technical assistance from those which can be handled through the use of local resources.

(iv) *Contract for technical assistance.* (a) Local education agencies seeking to secure technical assistance often find it advisable to arrange for services to be provided under a performance contract. Through the development of performance specifications, the local education agency introduces another aspect of accountability into project management. Emphasis, as the term "performance contracting" implies, is placed upon the goals attained, output—rather than solely on the procedures used, inputs. Performance contracts can be developed using noncompetitive or competitive procedures. As in any contracts made by the local educational agency, these contracts must comply with State and local contracting requirements.

(b) Using noncompetitive procedures, the local education agency selects the specific consultant or agency directly. Depending on the scope of work needed, a request for technical assistance may take the form of a letter to a consultant or agency which states the local education agency's requirements. The written agreements between the local education agency and consultant or agency regarding the local education agency's requirements and the work of the consultant or agency and his fee become the performance contract.

(c) A more detailed formal contract may be preferred in securing services of outside individuals or agencies. Such a contract between the local education agency and the contractee should incorporate the essential elements described in section 2.2(a)(2)(iv)(d) of this Part and Chapter concerning Request for Proposals. Examples of formal contracting without the use of competitive bidding might include educational program audit or inservice training by an institution of higher education.

(d) If the scope of work is extensive, as is more typical with the utilization of a technical assistance agency, the local agency invites bids by competitive procedures through a Request for Proposals (RFP). The Request for Proposals states in a more formal way (1) the local education agency requirements, and (2) the manner in which the local education agency wants the proposals or bids submitted by the various technical assistance agencies.

(v) *Selecting technical assistance.* (a) Local education agencies should insure that any technical assistance obtained is furnished by reputable contractors. When a local education agency is considering a particular technical assistance group, the agency should request the names of previous clients and contact their representatives to gain an assessment of the organization's past performance in similar tasks. Moreover, program planners should examine the capabilities of prospective technical assistance groups in terms of the following:

(1) Evidence of staff expertise in the job area (résumés should provide specific information concerning the background and experience of personnel assigned to the contract work). The technical assistance agency should indicate the availability of those personnel, giving evidence of staff stability, experience, and performance which would tend to insure successful completion of the contract terms and conditions; and

(2) Evidence of cost effectiveness in terms of the end products and services provided.

(b) The local education agency should also give consideration to the following:

(1) *Degree to which the technical assistance agency proposes to involve the people to be affected by its services.* All too often the acceptability of the agency's services is jeopardized by the isolation of the technical assistance specialists from the persons who will implement their ideas and recommendations. Technical assistance personnel should be provided with adequate information about the school system, and the project should have sufficient time to study the problems before recommendations are made;

(2) *Degree to which the technical assistance group proposes to adapt its program to meet local needs.* A pitfall to avoid is adoption of a "ready-made" program which has worked in another location. Representatives of the technical assistance group should indicate that they will carefully examine local conditions and modify the program as necessary; and

(3) *Degree to which the local education agency will retain supervision over project activities.* If the technical assistance group is going to contribute heavily to the direction and operation of one or more component activities, the local education agency shall maintain ultimate decision-making control over the project. Essential initial considerations are the qualifications established for the selection of the project director and the development of a plan for building in staff capability to assume complete responsibility for project operation.

(3) *Assessment of needs*—(i) *Preparation.* A prerequisite to the conduct of a local needs assessment is an assessment by the school district of its resource capability to perform that function. Provision should be made to assure the availability of adequate resources within the local district; or consideration should be given to obtaining outside assistance within existing constraints of time, funds, and personnel available.

(ii) *Assessment as a continuing process.* The assessment of needs is a continuing process which is vital to several stages of the planning and operation of a project. Because the application must reflect a careful analysis of needs for the proposed program, an initial needs assessment should be conducted prior to its submission. In those districts selected for title III, section 306 support, there will undoubtedly be a need for continuous examination and interpretation of existing information concerning the target group or educational issue. Whatever the procedures and approaches adopted by the local district in its investigation of the target group or issue, the assessment of needs should result in information which enables project planners to develop relevant program activities and priorities demonstrating a direct relationship between the identified causes of the problem and its proposed cures. Provision for a continuous assessment of needs, and procedures for the implementation of program modifications shown to be appropriate as a result of continuous needs assessment, should be incorporated into the ongoing project. The assessment of needs should be viewed as a dynamic process, as critical to the operational stages of the project as to the initial planning of it.

(iii) *Related resources.* Several resources will be available to the planning group in carrying out its work. One of the first tasks of the group might be an examination of existing programs, research, and literature pertinent to the target group or educational issue under consideration.

(iv) *Local studies.* The planning committee should identify and review relevant information on the local situation. The status of local needs assessments will, of course, vary substantially in individual districts, depending on the target group or issue upon which the proposed project will focus. Most districts have considerable data which, with some updating and expansion, can serve as the basis for planning a project focusing, for example, in the area of reading. While districts have access to adequate information from national research and studies concerning disadvantaged client groups, they may lack sufficient data concerning the needs of the disadvantaged children in their community. Still other districts, which may choose to design a project dealing with more recently recognized problems such as ecological education or student dissent may find that the existing data on these topics are inadequate and inconsistent, since awareness of these concerns at the national level has only recently emerged. Current information regarding the local situation may therefore be almost nonexistent. For those areas where information is unavailable locally, a survey sample may provide valuable insights into the nature and scope of the problem.

(v) *Interpretation of information.* The following suggestions may be helpful to those districts in the process of reviewing and interpreting information gathered previously and to those districts which will conduct new surveys and studies during the planning period:

(a) *Distinction between causes and symptoms.* Particular care should be taken to assure that surveys provide the information necessary to distinguish between the causes and symptoms of a problem.

(b) *Sources of information.* Surveys based on as broad a sampling of opinion as possible are needed. Since information compiled only from the viewpoint of teachers, administrators, or other school district personnel may have too limited a perspective to serve as the basis for planning a comprehensive program, local studies should also include the views of community representatives and agencies, parents, students and client group members or former members where appropriate. Any discrepancies in viewpoint revealed through a broad sampling may themselves be important indicators of the nature of the problem and should be known to the project planners.

(c) *Selection of interviewers.* Care should be taken to assure that, where appropriate, personal interviews are conducted by those to whom the various groups being questioned will respond most openly and that those being interviewed are assured that the information they give is confidential.

(4) *Performance objectives*—(i) *Need for measurable objectives.* Accountability for project accomplishments rests heavily on the degree to which such accomplishments can be validly measured. But the adequacy of the measurement process in turn depends upon project planners' skill in determining and framing project objectives. Too often, objectives are stated in loose, general language with the result that their meaning is subject to a variety of interpretations. A clear statement of objectives identifying specific types of performances to be measured is therefore an essential task facing project planners.

(ii) *Types of performance objectives.* Performance objectives in an educational program are precise statements of anticipated project goals in terms of behaviors, outcomes, or material items which can be validly measured. For purposes of project planning, performance objectives should be considered for three distinct areas of program design—*operational products, instructional or operational processes,* and *management processes.* Product refers to a behavior—cognitive, affective, or psychomotor—or a material item such as a curriculum guide or a list of available vocational opportunities for a work-study program. Process is the means by which a product or series of products is obtained.

(iii) *Elements of an objective.* In approaching the development of performance objectives, program planners should consider the following five elements for an adequately defined performance objective.

(a) Identification of the individual or group that will perform the desired behavior is the first step in developing a performance objective.

(b) Identification of the behavior to be demonstrated or product to be developed is the second essential element. The behavior should be described as precisely as possible as an action or a product that can be observed.

(c) The primary conditions under which the performance is expected to be measured is a third consideration. Conditions might include restrictions placed upon the project participant during the performance of specified behaviors, such as the time imposed on a student in a test-taking situation. Conversely, conditions might refer to supporting services which would be available as resources to assist in the attainment of the anticipated behavior or product.

(d) A fourth element is the minimum level of acceptable performance. This step is critical and poses many problems for program planners. Not only is there an element of risk involved in predicting what a program will accomplish, but there is need for considerable care in: (a) Establishing the performance standard through an analysis of past experience or research data, and (b) determining and collecting baseline data (data on existing status of performance or programs). Without adequate baseline data, predictions become trial-and-error guesswork.

(e) Closely related to the establishment of a minimum level of acceptable performance is the means or instrument which will be used to measure the expected performance or terminal behavior, the fifth essential element of a performance objective.

(5) *Evaluation design*—(i) *The quality of the design.* A comprehensive evaluation design through which the school system can assess the degree to which the project objectives have been achieved should be developed as an integral part of an overall program design. The purpose of the evaluation is to determine how well each component and the entire project function within the established framework of time, cost, and objectives. If well planned and operated, the evaluation system should result in information which communicates clearly whether the standards of performance specified in the objectives have been met to a degree greater than, equal to, or less than the predetermined standards and why. The task of designing the evaluation plan is both complex and multifaceted. Each component and the total project will entail the evaluation of product, operational process, and management process goals.

(ii) *Staffing needs.* As one of his primary management responsibilities, the project director should oversee the design and implementation of the evaluation plan. Many districts will find it necessary to hire consultants or to seek the help of an outside technical assistance group for the planning, installation, or operation of the evaluation system, particularly if the program requires newly developed instruments or techniques.

(iii) *Nonpublic school participants.* Careful consideration should also be given to the evaluation of these areas as they apply to the nonpublic school participants. The evaluation design should identify those objectives that pertain to them, particularly if they differ from those formulated for public school participants.

(iv) *Elements of the evaluation plan.* Five important elements to include in an evaluation design are as follows:

(*a*) *Performance objectives.* The development of the evaluation design is linked to development of performance objectives. If performance objectives have been developed properly both for product outcomes and for operational and management processes, a major part of the task has been accomplished; the expected behaviors, the measurement instruments, the conditions of measurement, and the minimum levels of acceptable performance will have been specified within the objectives. Following a careful review of the objectives to verify that each one contains the minimum essential elements, those persons responsible for designing the evaluation should assist the project planners in strengthening any objectives which require greater specificity, refinement, or the addition of omitted elements.

(*b*) *Measurement instruments and techniques.* (*1*) The evaluation instrument for each objective should be identified and described briefly. Standardized tests, questionnaires, rating scales, interviews, observation schedules, and interest inventories may be among the instruments selected. It is of critical importance that the instruments be matched as closely as possible to the objectives and that the validity and reliability of each instrument have been ascertained prior to its use. If new instruments are to be developed, a plan for their design and pretesting should be included.

(*2*) The baseline data requirements should be considered as the instruments are selected, since the validity of the evaluation process may be affected if the appropriate prerequisite data on the target population are not secured or available at the beginning of the program. Baseline data on ability and achievement levels, socioeconomic status, attitudes, and other characteristics of project participants will be needed in most cases for accurate measurement of the attainment of project performance objectives. The process of establishing baseline data is a task of some magnitude and requires skill on the part of the project planners. Questions of appropriateness to objectives, recency of collection, sensitivity or responsiveness to short-term change, reliability and objectivity of data, and comparability of data-gathering situations are some of the considerations which program planners should take into account as they design their evaluation.

(*3*) In the case of process evaluation, program planners should consider at least the following three approaches toward establishing a standard against which operational and management processes can be measured: Does the process exist? Is the process the most effective one known as compared with the best practice, determined by recognized authorities? Is the process more effective than similar processes used in other school system projects or operations?

(*4*) The evaluation techniques should also be specified clearly. Those who design the evaluation should determine whether traditional pre-test and post-test techniques should be used to measure some of the objectives, for example, and if so, on what basis the scores and ratings will be evaluated.

(*c*) *Data collection procedures.* The plan for the collection of evaluation data should cover a specified period of time and should include the complete evaluation schedule, the target populations to be measured, those responsible for arranging and administering the measurements, and any conditions of measurement not specified in the objectives. Procedures for the selection and training of testers, observers, or interviewers should be described. Charts and diagrams may prove to be helpful tools in the planning and organization of data collection procedures.

(*d*) *Data analysis techniques.* The data analysis techniques to be used by the project evaluator should be specified and described in the evaluation plan. In addition to indicating the statistical tests which will be applied and the types of comparisons and correlations to be drawn, the plan should reflect adjustments for such considerations as possible differential effects of program treatments, the bases for assumed equivalencies among groups, and pertinent external factors which might affect program results.

(*e*) *Data analysis presentation.* (*1*) The evaluator should outline his procedures for presenting the results of data analysis to project personnel, specifying the schedule, format, and recipients of his reports; and

(*2*) The project director should see that a plan is included for the dissemination of the results of project evaluation to the staff and the community. This plan also should include a schedule and should identify the individuals and groups who will receive information, the form in which it will be presented, and the staff members responsible for the presentations. As the project planners develop such a plan, they should consider the U.S.O.E. reporting requirements, the degree to which the procedures will provide a feedback system to enable appropriate program modifications based on the evaluation results, and the critical importance of providing the local community, particularly the community council and those affected by project activities, with timely information about the status of the program.

(v) *Problems in evaluation design.* As in other areas of project management, project planners are exposed to a number of pitfalls in developing an evaluation system. Previous experiences indicate that project planners should devote special efforts to overcoming or avoiding the following problems:

(*a*) *Fitting objectives to available instruments.* Project planners may find themselves designing program objectives around evaluation instruments which are well known and/or easily accessible. As a consequence of limited exposure to different kinds of evaluation techniques and scarcity of locally developed instruments, planners may find that types and amounts of baseline data are limited. Confronted with such a situation, planners are constrained from establishing specific performance objectives based upon an analysis of needs assessment data. Project planners should make every effort to develop or identify a broad and appropriate set of instruments rather than reject the objectives as unmeasurable or partly measurable.

(*b*) *Sensitivity of instruments.* Evaluation instruments should also meet certain conditions. Undoubtedly, one of the most critical conditions is sensitivity to incremental change. Project planners should give attention to the evaluation instrument's responsiveness to short-term changes. In some instances, product and process objectives may be evaluated satisfactorily on a yearly basis. In others, evaluation techniques may require more frequent application. Still another evaluation plan may be warranted when interim products are expected, such as the development of an instrument to identify potential low achievers within the first 3 months of project operation or changes in teacher skills as a result of a training program lasting several weeks.

(*c*) *Feasibility of instrument usage.* A number of problems relate to the issue of instrument feasibility, but many can be avoided if project planners give attention to the development of a comprehensive evaluation design. Timing is one fundamental consideration. If an instrument needs to be developed locally, a time allowance should be made for determining its validity and reliability before it is utilized in project evaluation. Attention should also be paid to the spacing of evaluation measures and to the time consumed in the administration of the instrument by staff members with evaluation responsibilities.

(vi) *Evaluation design summary chart.* This display of the evaluation design in chart form will serve several useful purposes. It will readily pinpoint critical evaluation dates for both the evaluator and the project director. In addition, it will facilitate a review of the comprehensiveness of the design. The chart would also be of substantial value to an educational auditor in developing his audit plan. It would normally be completed jointly by the project director and project evaluator.

(*6*) *Educational program audit*—(i) *Introduction.* The educational program audit is suggested as a means to validate the evaluation of an educational project. It is an external review conducted by qualified outside technical personnel who are not directly involved in the planning or operation of the project. The audit is designed to assess the appropriateness of evaluation procedures for determining the effectiveness of program operation and management, and to verify the results of the evaluation of an educational program. Assuming that the evaluation is complete, relevant, and valid and that it includes procedures for assessing product, process, and program management, an educational audit will not often report to the local administrators any outcomes which they do not already know. Instead, the audit will provide an added measure of objectivity for the conclusions reached through the evaluation process. The audit may also identify weaknesses in the evaluation procedures and offer ideas for correcting such weaknesses in succeeding phases of the project.

(ii) *Considerations in employing educational program auditors.* The local educational agency should take into account the following considerations in employing an educational program auditor:

(*a*) *Independence of operation.* The educational auditor should be completely independent of the direction or operation of the program or system to be audited. An educational program auditor should not have been involved in providing outside technical assistance in one or more of the following areas: designing the project, planning the project, operating any component of the project, preparing or providing materials or equipment for the project, managing the project, and conducting the evaluation of the project. These should not preclude his preaudit services, i.e., an examination of the evaluation design to determine whether it provides the means for an adequate audit of the project and the development of an audit plan.

(*b*) *Proximity to project or site to be audited.* To save time and money, the audit agency should be geographically based within a reasonable distance from the site of the project to be audited.

(*c*) *Submission of audit reports.* The educational program auditor should prepare reports on the status of the project for the local education agency.

(*d*) *Qualifications and record of acceptable performance.* The audit agency should provide a team of two or more persons to perform the professional audit tasks and give evidence of their acceptable performance in the application of the following: Measurement and evaluation techniques, educational research design and/or evaluation, evaluation of management systems, development and validation of tests and

measuring instruments, analysis of educational data, and processing and presentation of data relating to educational problems. Such audit should be comprehensive in dealing with the various aspects of a school system. In addition, the audit team should demonstrate expertise in the substantive area with which the project is concerned, for example, reading, early childhood education, special education, etc. This expertise may be represented by an individual who works with the team on a consultant basis.

(e) *Organizational capability.* The agent should give evidence of staff expertise and organizational capability which would tend to insure successful completion of contract terms and conditions.

(f) *Budget for educational audit.* The budget for the outside auditing agency should be determined by the time devoted to the task, the nature of the work to be accomplished, and the amount budgeted for project evaluation. Evaluation costs in general might approximate 10 percent of the total budget, and those for the educational audit about 2 percent of the total budget. It is suggested that the total costs of evaluation and the educational audit in general would therefore approximate 12 percent of the total budget.

(g) *Time frame.* The amount of time spent on the audit will, of course, depend on the size, scope, and complexity of the project. As far as possible, the auditor should be employed before the project begins operation.

(iii) *Suggested educational auditing procedures.* The following are steps which are recommended for establishing an effective audit process:

(a) Soon after an application is approved, the applicant should contact and establish liaison with one or more prospective educational auditors. The Office of Education does not recommend specific agencies for any type of outside technical assistance, but it may suggest upon request several agencies or individuals who have had experience in educational auditing, or review the qualifications of potential auditors to determine if they meet the criteria referred to previously. When the district has tentatively selected an auditor, arrangements should be made for services to be provided by the auditor during the developmental period.

(b) As the first of his activities during the developmental period, the auditor should familiarize himself thoroughly with the intent and policies of the title III, section 306 program and with the proposed objectives and project activities which the applicant presented in the application. The local district should provide a number of documents to the auditor early in the developmental period, including the title III, section 306, regulations and guidelines, the approved application, and any evaluative comments or recommendations for the further development of the program provided by the Office of Education.

(c) The major function of the auditor during the initial stages of the project is his conduct of a preaudit, i.e., an examination of the proposed evaluation system to determine whether it provides a basis for an adequate educational audit of the project. The auditor should determine, for example, whether measurable performance objectives exist for product and process in all components, whether the baseline data, the types of instruments to be used, and the quantity of evaluation data to be collected are adequate and whether instruments and procedures are included for the evaluation of product, operational process, and management process objectives.

(d) While the preaudit is being conducted, the auditor will work closely with the prospective project evaluator as well as with the project director and his staff. The auditor should be given draft materials for the operational plan as they are developed and copies of specific evaluation instruments as they are selected or designed.

(e) In making his critique of the proposed evaluation design, the auditor should be careful to maintain objectivity and detachment, lest he later find himself in the position of auditing his own work. Designing or modifying the evaluation system is *not* the function of the auditor. Should the auditor note discrepancies between the project objectives and the proposed instruments or procedures for evaluating them, he should communicate these discrepancies to the local education agency and suggest various alternative methods of correcting them. The selection of a specific corrective action should always be a local decision if more than one action is possible.

(f) The audit plan and a performance contract for the operational period also should be developed during the developmental period.

(g) The importance of the local school district in providing the auditor with project evaluation documents at scheduled times throughout the project period cannot be overemphasized. Prior to his on-site visits, the auditor should have adequate time for a detailed analysis of the evaluation document, formulation of questions to be raised with the project director and the evaluator, and determination of the specific sampling to be conducted during the visit. In turn, the local education agency will need time to arrange and confirm with the auditor his on-site visit schedule.

(h) It is clear that the auditor cannot possibly examine all of the project evaluative data. The auditor will work largely from tabulations, data analyses, and written interpretations and summaries of the evaluation; but the local education agency should retain the complete raw data collected, including tests, questionnaires, interview sheets, rating sheets, observation schedules, material products, videotapes, and films. These should be available for the auditor's inspection at any time during the contract period. In addition to providing the auditor with the evaluation reports, the local education agency should submit to him a description of the data analysis techniques and procedures used by the project evaluator, any recommendations for revisions of the evaluation design which have been proposed as a result of a particular phase of the evaluation cycle, and any recommendations for program modification which have been suggested as a result of the evaluation.

(iv) *Audit critiques of evaluation design and procedures.* As he makes his periodic critiques of the project's evaluation design and procedures, the auditor should consider questions such as the following for each major section of the evaluation system:

(a) *Selection of instruments.* (1) Did the range of instruments match the range of objectives?

(2) Were the instruments valid, i.e., did they measure the actual behavior intended by the objectives?

(3) Were measures used for both pre- and post-testing suitable for such repetition?

(b) *Data collection procedures.* (1) Were the measures applied under the physical conditions required by the instruments?

(2) Were the testers, observers, or interviewers appropriately selected according to the requirements of the instruments?

(3) Did the testers, observers, or interviewers receive appropriate training?

(4) Was the measurement schedule followed?

(c) *Data analysis procedures.* (1) Was there an adequate basis for any statistical difference among groups?

(2) Were differential effects of the program treatment taken into consideration?

(3) Was the formula or source given for the statistical tests which were applied?

(4) Did the data meet the prerequisites for the statistical tests used?

(5) Was consideration given to important external factors which might have affected program results?

(d) *Data analysis presentation.* (1) Did the evaluator present the data in a clear form?

(2) Were statistical conclusions stated in language appropriate for the intended audience?

(3) Were the conclusions communicated promptly to the appropriate persons?

(4) Did the conclusions focus on areas of primary importance for program decision making?

(v) *Audit site visits.* (a) The auditor's review of the written documents prior to his visit will establish a framework for the scope and emphases of his on-site work, which will consist largely of spot checking and sampling what has been reported in the documents. The critique of the evaluation reports is an important preliminary activity, but it is only through the on-site visits that the auditor can actually verify the results of the evaluation and assess the appropriateness of the evaluation procedures.

(b) The sampling conducted by the auditor during his visits may include the following: Observation of evaluation procedures, such as the administration of tests or interviews being conducted; observation of project activities and process; study of management; interviewing of parents, teachers, or project staff members; spot checking of written tests, questionnaires, interview sheets, rating sheets, and observation schedules; and review of material products, such as curriculum units or student projects.

(c) If either the sampling or the written documents reveal major departures from the evaluation design or discrepancies such as the complete absence of data, incomplete data, or inconsistencies, the auditor may wish to review the complete evaluation information collected for program activities and retained by the local education agency for such a review. Discussion with the evaluator and the project director may also assist the auditor in determining whether his observations of discrepancies or departures are accurate.

(d) Before concluding his on-site visit, the auditor should discuss any findings of major discrepancies with the project director and, if deemed appropriate, the superintendent of schools so that procedures for their correction and for appropriate followup activities by the auditor can be established as soon as possible. If, for example, some phase of the evaluation had not been completed on schedule and, therefore, could not be audited, the auditor might plan to audit that phase at a later date. Or if the procedures for some phase of the evaluation are to be modified substantially, a reaudit of that phase might be appropriate at some time prior to the next regularly scheduled complete audit.

(vi) *Audit Reports.* The major task of the auditor after he completes his on-site visit is the preparation of the audit report, which should include the following content areas:

(a) Introductory comments describing those aspects of the evaluation system with which his report will be concerned, in order that there be no ambiguity regarding the deliberateness of his treatment of the scope and depth of the evaluation;

(b) General comments concerning the quality of the project evaluation and the

comparative findings of the project evaluation and the audit;

(c) A detailed critique of the product, process, and management evaluation conducted for each component, based on an assessment of the instruments used, data collection procedures, data analysis techniques, and data analysis presentation;

(d) A description of the auditor's on-site findings and their correlation with the evaluator's data and reports, on a component-by-component basis, summary of consistencies and discrepancies, and interpretation of the discrepancies;

(e) Recommendations for revisions in the evaluation design, including a rationale for each recommendation. Since the auditor's objectivity can be maintained only if the selection of a specific action is a local decision, he should provide general rather than specific recommendations, posing several alternative actions or possible sources of assistance to the local education agency in correcting deficiencies; and

(f) Confirmation or questioning of the need for program modifications which have been proposed as a result of project evaluation. The audit report should be written initially as a draft document, to be presented to and discussed with the project director and evaluator prior to its formal submission to the local board of education and the superintendent. Provisions for a meeting to discuss the draft audit report will enable both the auditor and the project director and evaluator to raise final questions concerning its content, accuracy, and completeness and can serve as the occasion for a review of the entire educational audit process and the degree to which both the local education agency and the auditor have fulfilled their contract responsibilities.

(vii) *Grantee's response.* The superintendent should respond in writing to the auditor upon receipt of each report, stating his agreement or disagreement with the report findings, his reactions to the auditor's recommendations and his plan for their implementation or rationale for choosing not to implement them.

(b) *Factors receiving lesser emphasis.* The remaining five accountability factors as listed in § 2.1 of this part have received lesser emphasis in the implementation of the model. A brief description of each of these follows:

(i) *Staff development.* The determination of the nature and extent of staff development needed for the successful implementation of the accountability concept at the local, State, and Federal level, and the design and conduct of indicated development activities.

(ii) *Change strategies.* The development of effective strategies for systemic change in the educational enterprise and the incorporation of the strategies in project operations.

(iii) *Performance contracting.* The arrangement for technical assistance in project operations through contracts which condition compensation upon the accomplishment of specified performance objectives.

(iv) *Performance budgeting.* The allocation of fiscal resources in accordance with project objectives to be realized, rather than by objects or functions to be supported.

(v) *Cost effectiveness.* The analysis of unit results obtained in relation to unit resources consumed under alternative approaches to project operations, as a determinant in continued project planning.

(20 U.S.C. 844(a) (1), (2), and (6), 844b); (45 CFR 126.4(b))

PART 3—DISSEMINATION

3.1 *Importance of dissemination.* (a) Another important factor in effective program design and management is dissemination, the communications process that provides for the continuous two-way flow of information necessary to achieve maximum effectiveness in the planning, operation, and evaluation of project activities. The major goal of this process, when it is concerned with demonstration projects, is to develop an awareness of and interest in the project, and if the program proves effective, to stimulate support for the program and continuation and adoption of the program beyond the period of Federal funding.

(b) Dissemination is an important element in any title III, section 306 project, since the purpose of title III, according to section 301(a) of the Act, is "the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs." If these model programs are to be replicated and adapted across the Nation, there must be mechanisms provided to effectively disseminate their results. Of even greater importance to the success of each project, however, will be its efforts to gain local community awareness and support so that successful practices will be institutionalized after Federal funding has ceased.

3.2 *Linkage of evaluation and dissemination.* (a) A formal linkage between evaluation and dissemination efforts should be developed and maintained throughout the life of the project. Evaluation findings should be continuously disseminated within the project area to promote understanding, support, development, and adoption of the project. These findings are a major source of dissemination information, but they are usually couched in technical language and need to be interpreted and presented in a manner designed to foster the attention and understanding of special audiences and of the general public. Planning for evaluation should, therefore, be accompanied by planning for dissemination of the resulting information. Without this type of linkage, the result often is an abundance of highly technical data which cannot be interpreted meaningfully. When a project has operated for a sufficient period of time to demonstrate some degree of success (perhaps two years), plans should be developed for the wider dissemination of project results in order to facilitate its replication in other localities with similar needs.

3.3 *Planning for dissemination of results.* As the project begins to demonstrate sufficient success in the achievement of its objectives, a dissemination plan aimed at developing awareness of its successful practices and products should be formulated. The plan should include provisions for the following critical elements:

(a) Dissemination objectives stated in measurable terms, which are related to project objectives;

(b) Audience analysis to determine which groups should receive the information, what their information needs are, and the most effective strategies for reaching them;

(c) Determination of the most effective methods and media for disseminating information to a variety of audiences;

(d) Schedule of dissemination activities;

(e) System for receiving and using feedback from various audiences.

3.4 *Relationship with the Office of Education.* (a) Each grantee may disseminate information about project activities, progress, and evaluation findings in the project area. The grantee should also keep the State education agency and the Office of Education informed about the status of the project, so that these agencies can meet their responsibilities for dissemination.

(b) The Office of Education is responsible for national dissemination of title III, section 306 projects. To fulfill its responsibility, the Office is heavily dependent on information and materials transmitted by each project. The Office recommends that each grantee submit two copies of printed materials disseminated by the project and one copy of audiovisual materials produced by the project. Printed materials include curriculum materials, teacher guides, newsletters, brochures, and other printed matter. Audiovisual materials include films, filmstrips, slides, and videotapes. All materials, together with a statement of the purpose and extent of distribution, should be sent to the Office of Education program officer.

(20 U.S.C. 843(c), 844b)

[FR Doc.75-5135 Filed 2-25-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-182; Docket No. 19658]

PART 1—PRACTICE AND PROCEDURE

PART 13—COMMERCIAL RADIO OPERATORS

Fee Schedule and Commercial Radio Operator Licenses

1. On January 15, 1975, the Commission adopted a report and order (40 FR 3851) in the above-entitled matter which revised the Commission's entire schedule of fees effective March 1, 1975.[1] In that Report and Order the Commission also took note of the fact that it had suspended collection of the cable television and broadcast annual fees for the period between March 29, 1974 and the effective date of the revised schedule in view of the substantial questions raised by the opinion of the Supreme Court in "National Cable Television Association, Inc. v. United States," 415 U.S. 336 (1974). It announced that it would reassess those fees in accord with the principles used in the new fee schedule. We have now completed our recalculation of the fees to be imposed using the same method employed in the report and order, but with the budget for fiscal year 1973 as the cost base.

CABLE TELEVISION ANNUAL AUTHORIZATION FEE

2. The cable television annual authorization fee for 1973 and 1974, recalculated in the manner described above, is six cents per subscriber. Cable television systems will be required to submit the fee for both years to the Commission on or before August 1, 1975.

BROADCAST ANNUAL LICENSE FEE

3. The broadcast annual license fee applicable to the period covered by the suspension has also been recalculated using the same procedure employed in the report and order adopted January 15. Starting April 1, 1975, the first date following the effective date of the rules upon which any annual fees are due, all stations whose annual fees are due on that date or thereafter will pay a fee for the preceding twelve months, using a multiplier of 6.7 times the applicable spot rate for aural stations and 3.4 for television

[1] FCC 75-32, 40 FR 3844 (1975).

stations applicable to those months ending December 31, 1974, and a multiplier of 8.5 for aural stations and 4.25 for television stations for those months in the year period commencing January 1, 1975.

4. Payments are also due on August 1, 1975 covering past payments which were suspended. These were payments from April 1, 1974 to February 1, 1975. These are calculated as follows: For every station whose payments were due prior to February 1, 1975, the fee will be the applicable multiplier (6.7 or 3.4) times the spot rate for all months covered by the suspended payment. For stations whose payments would have been due on February 1, 1975 if not for the suspension, the fee will be apportioned using a multiplier of 6.7 or 3.4 for all months except January; for January the multiplier will be 8.5 or 4.25 for aural or television.

5. The applicable spot rate is the following: For all fees due on or after March 1, 1975 for the preceding twelve months, the applicable rate card is that in effect on the June 1st prior to payment. For all fees due August 1, 1975 covering previously suspended payments, i.e., those payments which would have been due through February 1, 1975, the applicable rate card is the same rate card which would have been used if the fee had not been suspended and had been paid on the original due date.

CHANGES REQUIRED IN THE PRIOR REPORT AND ORDER

6. In the revised schedule adopted on January 15, Note 1 to § 1.1111(a)(5) stated that gross revenues used to determine grant fees for assignments and transfers would be determined by taking the average of the annual gross revenue figures reported on line 19 of FCC Form 324 for the respective station(s) for the three full calendar years immediately preceding the date of the consummation of the assignment and transfer. We believe, however, that it is desirable for parties contemplating a sale to be able to calculate the fee in advance. Therefore, we are revising the note to indicate that the relevant years for determining the gross revenue figure will be those three calendar years immediately preceding the filing date, rather than the date of consummation. When the grant of an application filed early in the year is ready for approval in the same year prior to the filing of a Form 324 for the immediately preceding year, procedures will be developed for obtaining the gross revenue figure for this preceding year from the applicant prior to final approval of the grant.

7. We are amending the Commission's rules by adding the following language at the end of § 13.71:

EXCEPT for alien restricted radio-telephone operator permit applications, which must be submitted to Federal Communications Commission, Washington, D.C. 20554.

This provision is part of the rules presently and was inadvertently deleted in the further notice and the prior report and order in the docket, but is now included.

8. Two changes are necessary in the Common Carrier portion of the revised fee schedule. Paragraph 1.1113(i) of the schedule included a fee for applications for certification of priority of leased intercity private line service in emergency situations. The fee was originally proposed when the first notice of proposed rule making in this proceeding was adopted in December 1972. In view of changed circumstances with respect to the priority system and the interests of the Commission and the entire government in establishing an integrated emergency communications system, we have concluded that this fee should be abolished.

9. The footnote applicable to the method for calculating gross revenue as a basis for the fee charged for tariff filings referred to a form which is not required of all common carriers subject to this provision. It is therefore necessary to amend this footnote so as to make it applicable to all common carriers filing tariffs with the Commission.

10. The word "certification" as it appears in the parenthetical note following § 1.1120(a)(2) is revised to "registration." The Field Operations Bureau requires registration by users of industrial heating equipment under Part 18 rather than certification. The revision is, therefore, necessary.

11. One change is necessary in the Safety and Special Radio Services portion of the revised fee schedule. Section 1.1115(c)(9) was revised by an order released on August 8, 1974 (FCC 74-814, 48 F.C.C. 2d 350) to exempt applications for emergency position indicating radiobeacon (EPIRB) stations from application fees. The exemption was inadvertently deleted from the prior report and order, but is now included.

12. The amendments adopted herein will be effective as of March 31, 1975.

13. Authority for the adoption of the amendments herein is contained in section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and Title V of the Independent Offices Appropriation Act of 1952, 31 U.S.C. 483a.

14. Accordingly, *it is ordered*, That effective March 31, 1975, Parts 1 and 13 of the Commission's rules and regulations are amended as set forth below. *It is further ordered*, That this proceeding is terminated.

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

Adopted: February 11, 1975.

Released: February 20, 1975.

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

Parts 1 and 13 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

In § 1.1102, new paragraphs (e)(2)–(5), Note 1 following (e)(5), and a new (f)(2) are added to read as follows:

§ 1.1102 Payment of fees.

* * * * *

(e) * * *

(2) Each broadcast station shall pay an annual license fee to the Commission for the period April 1, 1973–February 28, 1975. The fee applicable to the period after December 31, 1974 shall be the fee prescribed in §1.1111(a)(5) of this chapter. The fee applicable to the period April 1, 1973–December 31, 1974 is as follows:

(i) For AM and FM stations: The annual license fee will be a payment equal to 6.7 times the station's highest single "one-minute" spot announcement rate, but in no event shall the annual license fee for each AM and each FM station be less than $25.00.

(ii) For television broadcast stations: The annual license fee will be a payment equal to 3.4 times the station's highest "30-second" spot announcement rate, but in no event shall the annual fee be less than $100.00.

(3) Fees applicable to any twelve-month period ending on or before February 1, 1975 must be submitted on or before August 1, 1975. Fees applicable to any twelve-month period ending after February 1, 1975 must be submitted on or before the anniversary date of the expiration date of the station's license as provided above.

(4) For broadcast stations submitting a fee on August 1, 1975 applicable to the period April 1, 1973–April 1, 1974 or June 1, 1973–June 1, 1974, the rate card on which the fee will be based is that of June 1, 1973. For broadcast stations submitting a fee on August 1, 1975 applicable to the period August 1, 1973–August 1, 1974, October 1, 1973–October 1, 1974, December 1, 1973–December 1, 1974 or February 1, 1974–February 1, 1975, the rate card on which the fee will be based is that of June 1, 1974.

(5) For broadcast stations paying an annual license fee applicable in part to a portion of calendar year 1974 and in part to a portion of calendar year 1975, the broadcast annual license fee will be prorated between the annual fee prescribed in paragraph (e)(2) of this section and the annual fee prescribed in § 1.1111(a)(6) of this chapter. A station's annual license fee will be computed by taking the number of months from the anniversary date to December 31, 1974, divided by 12, times the full year annual fee which is required by paragraph (e)(2) of this section, and adding to that the fee computed by taking the number of months from January 1, 1975 to the anniversary date, divided by 12 times the full year annual fee which is required by §1.1111(a)(6) of this chapter.

NOTE.—Example: AM station X has a license expiration date on October 1, Station X's highest single "one-minute" spot announcement rate is $10 as of June 1, 1974 and $20 as of June 1, 1975. Station X is required to pay an annual fee for the period October 1, 1973–October 1, 1974 on August 1, 1975 and an annual fee for the period October 1, 1974–October 1, 1975 on October 1, 1975. The fee due on August 1, 1975 will be $67.00. This is calculated by multiplying 6.7, the fee multiplier specified in paragraph

(e)(2) above, times $10.00 the highest single "one minute" spot announcement rate as it appears on the applicable rate card, that of June 1, 1974. The fee due on October 1, 1975 is $161.00. To calculate this fee it is necessary to prorate the fee based on the portion of the twelve-month fee payment period during calendar year 1974 and that during calendar year 1975. The number of months from October 1, 1974 to December 31, 1974 is 3. The first step in calculating the fee is to multiply $\frac{3}{12} \times 6.7 \times \$20$, the portion of calendar year 1974 covered by the fee ($\frac{3}{12}$) times the applicable fee multiplier (6.7), times the spot rate ($20 here as the June 1, 1975 rate card is used). This portion of the fee is $33.50. Next it is necessary to multiply $\frac{9}{12} \times 8.5 \times \$20$, the portion of calendar year 1975 covered by the fee ($\frac{9}{12}$) times the fee multiplier from section 1.1111(a)(6) (8.5), times the spot rate. This portion of the fee is $127.50. The annual fee equals the sum of the two amounts $33.50 and $127.50 or $161.00.

(f) * * *

(2) Each CATV system shall pay an annual authorization fee to the Commission for calendar years 1973 and 1974 to be submitted on or before August 1, 1975. The fee for each system shall be equal to the number of subscribers times 6 cents. The number of subscribers shall be determined by averaging the number of subscribers on the last day of each calendar quarter.

* * * * *

2. In § 1.1111, Note 1 following paragraph (a)(5) is revised to read as follows:

§ 1.1111 Schedule of fees for Radio Broadcast Services.

* * * * *

NOTE 1.—Gross revenue will be determined by taking the average of the annual gross revenue figures appearing on line 19 of FCC Form 324 for the respective station(s) for the three years immediately preceding the date of filing the application for the assignment or transfer. Procedures will be initiated to obtain the gross revenue figure for the immediately preceding year in any case in which a grant may be approved prior to the filing of the Form 324.

* * * * *

3. In § 1.1113, paragraph 1.1113(l) and Footnote 14 are revised to read as follows:

§ 1.1113 Schedule of fees for Common Carrier Services.

* * * * *

COMMON CARRIER NONRADIO APPLICATIONS

Sec. 214 application for construction or acquisition of landline domestic cable or waveguide.[14]	$60	$3 per route mile.
Sec. 214 application to establish or supplement domestic facilities by installation or acquisition of carrier equipment on wire, cable, waveguide, or radio routes.[16]	$15	$4.50 per 100 equivalent 4 kHz channel miles authorized.[12 13]
Sec. 214 application to lease channels from other carriers for domestic use.[16]	$15	$3.50 per 100 equivalent 4 kHz channel miles authorized.[12 13]
Sec. 214 application to lease satellite transponder for domestic use (per transponder).	$25	None.
Sec. 214 application for overseas cable construction	$600	$30 per route mile (nautical).
Sec. 214 application to establish or supplement international facilities by installation or acquisition of carrier equipment on overseas cable or radio routes (except satellite) or to acquire such facilities on a capital basis other than ownership.	$30	$6 per 100 3 kHz channel miles authorized.[12]
Sec. 214 application to lease channels on overseas cable or radio routes (except satellites).	$30	$3.50 per 100 equivalent 3 kHz channel miles authorized.[12]
Sec. 214 application to lease circuits to interconnect international circuits:		
Circuits outside of the United States	$15	None.
Circuits within the United States or territories	$15	$3.50 per 100 equivalent 3 kHz channel miles authorized.[12]
Sec. 214 application to install carrier equipment to establish international channels of communication at an earth station.	$60	One-third of 1 percent of of equipment and installation cost as set forth in application.
Sec. 214 application to establish and provide international channels of communication via satellite.	$150	None.
Sec. 214 application to acquire satellite channels for international use	$30	$12 per equivalent 4 kHz channel.[12]
Cable landing license	$120	None.
Sec. 214 application to discontinue, reduce or impair service to the public:		
Telegraph offices and public coast stations[15]	$15	Do.
All other	$60	Do.
Interlocking directorate applications	$30	Do.
Sec. 221 applications	$30	Do.
All other common carrier nonradio applications	$15	Do.

* * * * * * *

[15] Total operating revenues of filing carrier and its communications common carrier subsidiaries for the previous calendar year. The fees for tariff filings made by one carrier solely on behalf of another carrier shall be based on the total operating revenues of the carrier for which the filing is made.

* * * * * * *

4. In § 1.1115, paragraph (c)(9) is revised to read as follows:

§ 1.1115. Schedule of fees for the Safety and Special Radio Services.

* * * * *

(c) * * *

(9) Applications for licenses for aircraft stations to operate with only an emergency locator transmitter (ELT); or an application for only an emergency position indicating radio-beacon (EPIRB) station; or an application for modification of a ship station license to include authority for operation of an EPIRB.

5. In § 1.1120, paragraph (a)(2) is revised to read as follows:

§ 1.1120 Schedule of fees for equipment type approval, type acceptance and certification.

* * * * *

(a) * * *

(2) Application for certification of equipment operating under Part 18.[3] (No fee required for registration for use of industrial heating equipment on Form 724 in accordance with § 18.116 of the Commission's rules) 150

* * * * *

6. In § 13.71, paragraph (b) is revised to read as follows:

§ 13.71 Issue of duplicate or replacement licenses.

* * * * *

(b) The holder of any license or permit whose name is legally changed may make application for a replacement document to indicate the new legal name by submitting a properly executed application accompanied by the license or permit affected. If the authorization is of the diploma form, the application should be submitted to the office where it was issued. If the authorization is of the card form (Restricted Radiotelephone Operator Permit) it should be submitted to the Federal Communications Commission, Gettysburg, Pa. 17325, except for alien restricted radiotelephone operator permit applications, which must be submitted to Federal Communications Commission, Washington, D.C. 20554.

* * * * *

[FR Doc.75-5112 Filed 2-25-75;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—OFFICE OF PIPELINE SAFETY

[Docket No. OPS-26; Amdt. 192-17]

PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Qualification of Pipe Transported by Railroad; Correction

FR Doc. 75-3792, published at page 6345 in the issue dated Tuesday, February 11, 1975, is corrected by changing the word "entered" to read "entitled" in the amended item 4 of section II.A of Appendix A to Part 192.

Issued in Washington, D.C., on February 20, 1975.

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

[FR Doc.75-5140 Filed 2-25-75;8:45 am]

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

[Docket No. 71-18; Notice 8]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Non-Passenger-Car Tires

This notice changes the effective date schedule of Standard No. 119, *New pneumatic tires for motor vehicles other than passenger cars*, 49 CFR 571.119, to permit a delay of 2 days in the implementation of the labeling scheme.

Firestone Tire and Rubber Company has petitioned for rulemaking to delay the effective date of Standard No. 119 from March 1, 1975, to March 3, 1975, to permit a transition to the new labeling scheme on a non-workday. The present March 1, 1975, date would require interruption of work on Friday or Saturday to effect changes to the tire molds, while a March 3, 1975, date will permit those changes to be made on Sunday, March 2, 1975.

While the NHTSA does not encourage requests for delays of labeling requirements, it concludes that the short delay requested in this case will not have a significant adverse effect on motor vehicle safety and that the change will aid in the orderly implementation of the standard. The effective date of Standard No. 119 as a whole remains March 1, 1975, and tires may be marked according to the requirements on that date. However, compliance with the labeling requirements of S6.5, *Tire Marking*, will be optional during the first 2 days of March, and conformity with S6.5 will first be required on March 3, 1975.

Because of the imminence of the effective date of the standard, and because this change in an effective date involves a minor relaxation of a rule that will not have a significant effect on motor vehicle safety, the National Highway Traffic Safety Administration finds, for good cause shown, that notice and public procedure thereon are impracticable and unnecessary.

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

Issued on February 24, 1975.

JAMES B. GREGORY,
Administrator.

[FR Doc.75-5197 Filed 2-24-75;2:07 pm]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-75-267]

PART 275—LOW RENT PUBLIC HOUSING

Prototype Cost Limits; Nevada

In the FEDERAL REGISTER issued May 17, 1974, (39 FR 17678), prototype per unit cost schedules were published pursuant to section 15(5) of the United States Housing Act of 1937. Consideration of subsequent factual project cost data and other information received from the Reno Insuring Office and the San Francisco Area Office indicates a prototype per unit cost schedule should be established for the following Nevada prototype cost areas; Elko, Fallon and Gardnerville.

Written data, views or statements may be filed with the appropriate HUD Area Office. The offices were listed in our publication of May 17, 1974. Accordingly, 24 CFR Part 275 is amended as follows:

The new prototype per unit costs for Elko, Fallon and Gardnerville, Nevada are to be added to page 17742 as shown on the table set forth hereinafter entitled Prototype Per Unit Cost Schedule.

(Sec. 7(d) of Dept. of HUD Act, U.S.C. 3535 (d)).

Effective date. This amendment is effective February 26, 1975.

DAVID M. DEWILDE,
Acting Assistant Secretary-Commissioner.

Prototype per unit cost schedule—Region IX

	Number of bedrooms						
	0	1	2	3	4	5	6
Elko, Nev.:							
Detached and semidetached			19,150	22,400	26,800	29,700	31,100
Row dwellings							
Walk-up							
Elevator-structure							
Fallon, Nev.:							
Detached and semidetached			19,150	22,400	26,800	29,700	31,100
Row dwellings							
Walk-up							
Elevator-structure							
Gardnerville, Nev.:							
Detached and semidetached			17,650	20,700	24,800	27,400	28,700
Row dwellings							
Walk-up							
Elevator-structure							

[FR Doc.75-5074 Filed 2-25-75;8:45 am]

[Docket No. R-75-267]

PART 275—LOW RENT PUBLIC HOUSING

Prototype Cost Limits; Tennessee

In the FEDERAL REGISTER issued May 17, 1974, (39 FR 17678), prototype per unit cost schedules were published pursuant to section 15(5) of the United States Housing Act of 1937. Consideration of subsequent factual project cost data and other information received from the Knoxille Area Office indicates that certain prototype costs for Chattanooga, Tennessee published May 17, 1974, should be revised.

Written data, views or statements may be filed with the appropriate HUD Area Office. The offices were listed in our publication of May 17, 1974. Accordingly, 24 CFR Part 275 is amended as follows:

1. On page 17704 delete the existing prototype costs for Chattanooga and substitute in lieu thereof the revised prototype per unit costs shown on the table set forth hereinafter, entitled Prototype Per Unit Cost Schedule.

(Sec. 7(d) of Dept. of HUD Act, U.S.C. 3535 (d)).

Effective date. This amendment is effective February 26, 1975.

DAVID M. DEWILDE,
Acting Assistant Secretary-Commissioner.

Prototype per unit cost schedule—Region IV

	Number of bedrooms						
	0	1	2	3	4	5	6
Chattanooga, Tenn.:							
Detached and semidetached							
Row dwellings							
Walk-up	8,650	10,800	13,700	16,200	18,850	20,750	21,600
Elevator-structure	13,200	15,350	19,250				

[FR Doc.75-5075 Filed 2-25-75;8:45 am]

CHAPTER IV—OFFICE OF ASSISTANT SECRETARY FOR HOUSING MANAGEMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER A—INSURED MULTIFAMILY HOUSING—MANAGEMENT AND MORTGAGE SERVICING

[Docket No. R-75-314]

PART 403—LOCAL RENT CONTROL

Interim Rule

The Department of Housing and Urban Development (HUD) has received numerous inquiries relating to the jurisdiction of local rent control boards over FHA projects. This has become an area of great concern to the Department, because it has been determined that local rent control is a significant factor in causing owners of FHA projects, especially subsidized projects, to default on their mortgage payments. The defaults are leading to a substantial number of mortgage insurance claims by mortgagees upon HUD and to the withdrawal from the nation's housing stock of an increasing number of units for low income families. Since HUD already regulates, pursuant to the National Housing Act, the maximum permissible rents that an owner of a project financed by a mortgage insured by HUD may charge, and since each mortgage insurance claim typically requires the expenditure of several millions of dollars by the Department, HUD has an overriding interest to

preempt state and local actions which contribute to such claims. Moreover, with respect to HUD-owned projects, they are property of the United States Government, and therefore not subject to local regulation.

It is for these reasons that the Department is adding to Chapter IV of Title 24 a new Part 403, "Local Rent Control," that formally sets forth HUD's position on local rent control of FHA projects. The rule essentially provides that the Department shall assert exclusive jurisdiction over the maximum rentals for unsubsidized projects with mortgages insured or held by HUD only when it deems that its economic interest in the project is jeopardized by the decision of the local rent control authority (or by a delay in making a decision). However, the Department has exclusive jurisdiction over the rents of all subsidized projects with mortgages insured or held by HUD and all HUD-owned projects. The rule also specifies procedures for handling cases where the local rent control board approves a lower maximum rent level than HUD does.

This regulation is being adopted as an interim rule to be effective upon publication, because the Department considers it vital to avoid further mortgage insurance claims caused by local rent control restrictions. However, the Department invites interested persons to submit data, views, and suggestions with respect to this rule and is providing 60 days in lieu of the usual 30 days in which to file comments. All relevant material received on or before April 25, 1975, will be considered before a final rule is adopted. Filings should refer to the above Docket number and should be filed with the Rules Docket Clerk, Office of General Counsel, Room 10245, 451 Seventh Street, SW., Washington, D.C. 20410. Copies of the comments submitted will be available during business hours at the above address for examination by interested persons.

The Department has determined that an Environmental Impact Statement is not required with respect to this rule. The Finding of Inapplicability is available for inspection at the above address.

Title 24, Chapter IV is amended by adding Part 403 to read as follows:

Subpart A—Unsubsidized Insured Projects

Sec.
403.1 Applicability.
403.2 Rental charges.
403.3 Procedures.

Subpart B—Subsidized Insured Projects

403.5 Applicability.
403.6 Rental charges.
403.7 Procedures.

Subpart C—HUD-Owned Projects

403.8 Rental charges.
403.9 Procedures.

AUTHORITY: Sec. 7(d) of the HUD Act (42 U.S.C. 3535(d); Sec. 211, 52 Stat. 23, as amended (12 U.S.C. 1715b).

Subpart A—Unsubsidized Insured Projects

§ 403.1 Applicability.

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

§ 403.2 Rental charges.

The Department will generally not interfere in the regulation by local rent control boards of rents of unsubsidized projects with mortgages insured or held by HUD. However, HUD will assert exclusive jurisdiction over the regulation of the rents of such a project when the delay or decision of a local rent control authority jeopardizes the Department's economic interest in the project.

§ 403.3 Procedures.

(a) The local HUD office shall process a mortgagor's request for approval of increases in the maximum permissible rents pursuant to Part 401 of this Chapter and HUD Handbook 4350.1, "Insured Project Servicing Handbook," without regard to the existence or terms of a local rent control ordinance. The mortgagor should simultaneously submit a similar request to the local rent control board following the requirements of the local jurisdiction.

(b) The mortgagor is responsible for informing the local HUD office, if the rents for the project approved by the local board are lower than those approved by HUD, or if the board fails to act within a period of thirty (30) days following the filing of the application. The mortgagor shall furnish the local HUD office any financial data that was supplied to the local board, but not previously furnished to HUD, along with the reasons why he believes that HUD's economic interest in the project is jeopardized by the local board.

(c) Upon reviewing all the information submitted by the mortgagor, the local HUD office shall promptly send a written report to the Office of Loan Management (HUD Central Office) and a copy to the Regional Office, if it deems the delay or decision of the local rent control board jeopardizes the Department's economic interest in the project and the local board will not modify its position to the satisfaction of the local HUD office.

(d) The Office of Loan Management shall promptly review the local HUD office's report and make a recommendation to the Office of General Counsel if it thinks that legal action in the matter is desirable. Such action will be determined independently of any action taken by the mortgagor.

Subpart B—Subsidized Insured Projects

§ 403.5 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) rent supplement payments pursuant to section 101 of the Housing and Urban Development Act of 1965; (d) direct loans at below-market interest rates pursuant to section 202 of the Housing Act of 1959; and (e) housing assistance payments pursuant to section 8 of the United States Housing Act of 1937.

§ 403.6 Rental charges.

The Department finds that it is in the national interest to assert exclusive jurisdiction over the regulation of the rents of subsidized projects with mortgages which it insures or holds. Therefore, the Department has determined to preempt the entire field of rent regulation by local rent control boards acting pursuant to state or local law as applied to subsidized projects with mortgages which are insured or held by HUD.

§ 403.7 Procedures.

(a) The mortgagor shall be responsible for notifying the local HUD office whenever a local rent control board takes any action to prevent the mortgagor from implementing a HUD-approved rent increase.

(b) Upon receiving such notification, the local HUD office shall promptly convey the Department's position on this subject, as reflected in this Subpart, to the local rent control board. If the local rent control board then fails to approve the rent schedule approved by HUD, the local HUD office shall promptly notify the Office of General Counsel, the Office of Loan Management, and the Regional Office.

Subpart C—HUD-Owned Projects

§ 403.8 Rental charges.

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

§ 403.9 Procedures.

Whenever a local rent control board takes any action to prevent the Department from implementing a rent increase, the local HUD office shall promptly convey the Department's position on this subject to the local rent control board. If the local rent control board then fails to approve the rent schedule instituted by HUD, the local HUD office shall promptly notify the Office of General Counsel, the Office of Loan Management, and the Regional Office.

Effective date. This amendment is effective February 26, 1975.

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

[FR Doc.75-5073 Filed 2-24-75;12:16 pm]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER P—RECORDS

PART 286—AVAILABILITY TO THE PUBLIC OF DEPARTMENT OF DEFENSE INFORMATION

Procedure and Requirements

The Deputy Secretary of Defense has approved the following revision to Part 286. This Part 286 provides overall guidance to Department of Defense components on how they should respond to

requests from the public for records under the Freedom of Information Act, as amended. It also describes the procedures which must be followed by the public in requesting records under this Part.

In view of inadequate time to obtain public comments on these rules prior to their adoption, public comment is solicited before April 18, 1975 for consideration in connection with any further revision of this Part that may be accomplished in the near future.

Part 286 is revised to read as follows:

Sec.
286.1 Purpose.
286.2 Cancellation.
286.3 Applicability and scope.
286.4 Policy.
286.5 Availability of records.
286.6 Exemptions.
286.7 Responsibilities.
286.8 Implementation.
286.9 Effective date.
286.10 Uniform agency fees for search and duplication under the Freedom of Information Act Amendments, Pub. L. 93-502.
286.11 Inspection and copying of opinions, orders and manuals.
286.12 Identification and marking "for official use only."
286.13 Release procedures.
286.14 Judicial action.
286.15 Reporting requirement.
286.16 Release and authentication of copies of official records.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502.

§ 286.1 Purpose.

This Part: (a) Implements the Freedom of Information Act by describing:

(1) The kinds of records that must be made available to the public and the procedures which shall be used in making them available by providing an opportunity to inspect and copy them at convenient locations, with current indices (§ 286.11), and by providing copies.

(2) The kinds of records which need not be made available to the public.

(b) Prescribes uniform policy for the identification and marking of records which need not be made public through the use of the term "for official use only" (FOUO). This designation will be used to identify records not to be released to the public for reasons other than security classification under DoD Directive 5200.1 and DoD Regulation 5200.1-R (32 CFR 159) or under Pub. L. 86-36 (50 U.S.C. 402 note) (National Security Information Exemption); 35 U.S.C. 181-188 (Patent Secrecy); or 42 U.S.C. 2161 (Restricted and Formerly Restricted Data); and the procedures for release and authentication or certification of official records requested by other governmental bodies, whether executive, legislative, judicial, or regulatory, in making official determinations (§ 286.16).

(c) Provides procedures for review of denials of requests for records to preclude unnecessary or unauthorized withholding, and for responding to court actions taken to compel release of records.

§ 286.2 Cancellation.

DoD Directive 5015.1 (17 FR 7183 and 23 FR 4519) is hereby cancelled.

§ 286.3 Applicability and scope.

This Part applies to the Office of the Secretary of Defense (including the organization of the Joint Chiefs of Staff), the military departments, and all other Department of Defense agencies, each hereinafter referred to singularly as a component and collectively as components, and governs all records of the Department of Defense. It provides specifically for making records available to the general public when requested under 5 U.S.C. 552, as amended by Pub. L. 93-502. Requests from members of Congress are governed by DoD Directive 5400.4, "Provision of Information to Congress," February 20, 1971,[1] from the General Accounting Office by DoD Directive 7650.1, "General Accounting Office," Comprehensive Audits, July 9, 1958,[1] and from other agencies and the courts by § 286.16. Receipt of service of process is determined by 32 CFR 257. National Security Agency official records and information are exempt from the provisions of this Part in accordance with Pub. L. 86-36 (50 U.S.C. 402 note) (National Security Information Exemption).

§ 286.4 Policy.

(a) It is the policy of the Department of Defense to make available to the public the maximum amount of information concerning its operations and activities. Exceptions to the general requirement for disclosure shall be made in accordance with the exemptions set forth in § 286.6 and the release procedures prescribed in § 286.13.

(b) A record exempt from public disclosure under the exemptions set forth in § 286.6 should, nevertheless, be made available to the public when its disclosure is not inconsistent with statutory requirements (see § 286.6(c)(3)), with security classification requirement (32 CFR 159), or with other requirements of law, and when a component official charged with this responsibility determines that no significant and legitimate governmental purpose would be served by withholding the record. A determination of whether a significant and legitimate governmental purpose is served by withholding a record under the provisions of § 286.6 is within the discretion of the responsible officials within the component, as designated in accordance with § 286.7.

(c) A record may be withheld from the public only as authorized by the Freedom of Information Act, this Part, and other implementing regulations issued pursuant to this Part. The possibility that release of a record may cause embarrassment by suggesting administrative error or inefficiency may *not* be considered in determining whether it should be released (DoD Directive 5230.13, "Public Information Principles," October 23, 1973[1]).

[1] Filed as part of original. Copies available at U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120, Attn: Code 300.

§ 286.5 Availability of records.

(a) Subject to the exemptions set forth in § 286.6 and the procedural requirements of § 286.13, a record of a component shall be made available in response to a request from any person under the authority of 5 U.S.C. 552, as amended by Pub. L. 93-502. Other requests for information, including some kinds of records, may be answered promptly in accordance with other established procedures and requirements available to requesters in particular categories (e.g., component personnel seeking access to their personal records), but a request identified as being made pursuant to 5 U.S.C. 552, as amended by Pub. L. 93-502, even by requesters in these particular categories, shall be processed in accordance with this Part. Records which are published in the FEDERAL REGISTER in accordance with 40 FR 4911 or made available for inspection and copying in a library, reading room, or other facility (§ 286.11) should, where practicable, also be copied and forwarded by the component to those who request copies. Requesters may, however, be directed to an established source from which members of the public may obtain the record sought (e.g., the Government Printing Office).

(b) In determining whether documentary material qualifies as a "record" consideration should be given to the Act of July 7, 1943, ch. 192, sec. 1 (44 U.S.C. 3301) (Records Disposal), which defines the word "records" for records disposal purposes as follows:

"Records include all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included."

(1) Records are not limited to permanent or historical documents but include current documents as well.

(2) The term "records" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, etc., whatever their historical value or value as "evidence."

(3) The items listed in § 286.5(b) that are maintained in computers, as well as audiovisual documentary material, are not excluded from the provisions of this Part.

(4) Formulae, designs, drawings, research data, computer programs, technical data packages, and so forth, are not considered "records" within the Congressional intent of 5 U.S.C. 552, as amended by Pub. L. 93-502. Because of

development costs, utilization, or value, these items are considered exploitable resources to be utilized in the best interest of all the public and not preserved for informational value nor as evidence of agency functions. Requests for copies of such material shall be evaluated in accordance with policies expressly directed to the appropriate dissemination or use of these resources. Requests to inspect this material to determine its content for informational purposes shall normally be granted, unless inspection is inconsistent with the obligation to protect the property value of the material, as, for example, may be true for certain formulae, or is inconsistent with another significant and legitimate governmental purpose.

(c) A request for a record will be granted if:

(1) The requester reasonably describes in writing the record sought. This requires sufficient particularity in the description to enable the component to locate the requested record with reasonable effort. The component may require the requester to complete a form to facilitate efforts to locate a record not otherwise reasonably described.

(2) The requester is willing and able to pay the cost associated with searching for and duplicating the record sought, as determined by § 286.10. Costs attributable to determining the applicability of an exemption under § 286.6 or whether a significant and legitimate governmental purpose would be served by withholding the record shall not be included in the computation of costs chargeable to the requester. Charges shall be waived in whole or part in accordance with § 286.10 when it is determined by a component that release of a requested record primarily benefits the general public and is, therefore, in the public interest.

(3) The requester complies with reasonable requirements set forth in the regulations of each component regarding the time, place, and procedure for obtaining a copy of the record.

(d) A record must exist at the time of the request to be considered subject to this Part. A record that is maintained by computer normally is deemed to exist for this purpose only if retrievable in approximately the form requested without substantial reprogramming. There is no obligation to "create" or compile a record for the purpose of satisfying a request for information. When the information requested exists in the form of several records at several locations the applicant should be referred to these sources if gathering the information would be burdensome.

(e) When the record requested was originated by another agency or component, the request normally shall be referred promptly and directly to that agency or component for disposition, and the requester shall be notified of that referral.

(1) Coordination prior to transfer of a request for a record is recommended to insure that there is no valid basis for an exception to this normal procedure.

(2) The component which receives the request for a record originated by another component or agency may respond directly to that request pursuant to an agreement with the originator.

(3) Requests referred from other components or agencies for the records of a component shall be answered in accordance with the time limits applicable to direct requests from the public, and begin to run upon receipt of the referral.

(f) The originating component shall, whenever feasible, consult with other agencies or components having a significant interest in the content of a requested record before determining whether to make it available to the requester.

(g) Each component shall avoid creating artificial procedural obstacles when internal Department of Defense organizational questions arise, particularly where reorganization or transfer of functions contributes to an improperly directed request. Defense Department personnel shall make reasonable efforts to assist private persons in directing requests for information to the appropriate authorities.

(1) This assistance shall include advice to the public in framing requests, either in regulations implementing this Part or on a case-by-case basis, so as to minimize the burden on the public and on the component. When literal compliance with a request for a determinable category of voluminous records would be impracticable within any reasonable time, the component should advise the requester of the need to describe more reasonably and particularly the scope or nature of the request. Orderly procedures shall be established to facilitate a determination by the requester of the records of particular interest. Screening records (i.e., locating the requested records by searching and examining a large group of records among which the requested record is located) and transporting records for screening purposes may constitute a search cost payable by the requester, in advance, along with costs of duplication in accordance with § 286.10.

(2) Exempt portions of a record should be deleted by a component and the remaining reasonably segregable portions of the record released to the requester when the meaning of these portions is not distorted and it can be reasonably assumed that a skillful and knowledgeable person could not reconstruct the exempt information. A system of designating exempt portions at the time a record is originated provides a basis for reasonable segregation, although the continuing validity of the exemption must be reevaluated in response to the request. Paragraph marking of information which is required by DoD Directive 5200.1 and DoD Regulation 5200.1-R (32 CFR 159) is an example of such a system and a paragraph so marked may be considered to be a reasonably segregated portion of a record. Reevaluation of the continuing validity of an exemption may be accomplished on the basis of such segregable portions of a record rather than on the basis of individual sentences, phrases and words.

§ 286.6 Exemptions.

(a) Records which otherwise would have to be published or made available in the FEDERAL REGISTER (40 FR 4911), in a library or reading room (§ 286.11), or in response to a request for a record under § 286.5 may be withheld from public disclosure if they come within a specific exemption.

(b) Deletion or modification in this section of provisions contained in the earlier version of this Part is not necessarily indicative of any change in policy or position regarding the applicability of any exemption. An exempted record or reasonably segregable portion of a record, however, should be made available upon the request of any member of the public when, in the judgment of the releasing component or higher authority, no significant and legitimate governmental purpose would be served by withholding it under an applicable exemption. Consistency with a statutory requirement (e.g., 18 U.S.C. 1905 (Confidential Trade Information); DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972, and DoD Regulation 5200.1-R, "DoD Information Security Program Regulation," November 15, 1973 (32 CFR 159)), or other requirement of law constitutes a significant and legitimate governmental purpose.

(c) The following types of records may be withheld in whole or part from public disclosure unless otherwise prescribed by law:

(1) Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by Executive Order and implemented by regulations, such as DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972, and DoD Regulation 5200.1-R "DoD Information Security Program Regulation," November 15, 1973 (32 CFR 159).

(2) Those containing rules, regulations, orders, manuals, directives, and instructions relating to the internal personnel rules or to the internal practices of a component if their release to the public would substantially hinder the effective performance of a significant function of the Department of Defense. Examples include:

(i) Operating rules, guidelines and manuals for Department of Defense investigators, inspectors, auditors, or examiners.

(ii) Certain schedules or methods of operation which would reveal:

(A) Negotiating and bargaining techniques.

(B) Bargaining limitations and positions.

(C) Inspection schedules and methods.

(D) Audit schedules and methods.

(iii) Personnel and other administrative matters such as examination questions and answers used in training

courses or in the determination of the qualifications of candidates for employment, entrance to duty, advancement, or promotion.

(3) Those containing information which statutes authorize or require be withheld from the public. The authorization or requirement may be found in the terms of the statute itself or in Executive Orders or regulations authorized by, or in implementation of, a statute. Examples include:

(i) 18 U.S.C. 1905 (Confidential Trade Information)—For trade, technical, and financial information provided in confidence by businesses.

(ii) Pub. L. 86-36 (50 U.S.C. 402 note) (National Security Information Exemption)—National Security Agency information.

(iii) 35 U.S.C. 181-188 (Patent Secrecy)—Any records containing information relating to inventions which are the subject of patent applications on which Patent Secrecy Orders have been issued.

(iv) 42 U.S.C. 2161 (Restricted and Formerly Restricted Data)—Restricted Data and Formerly Restricted Data.

(4) Those containing trade secrets or commercial or financial information which a component receives from a person with the understanding that it will be retained on a privileged or confidential basis in accordance with customary handling of such records. Such records are those the disclosure of which would cause substantial harm to the competitive position of the person providing the information; impair the Government's ability to obtain necessary information in the future; or impair some other legitimate governmental interest. Examples include records which contain:

(i) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions and discoveries, or other proprietary data.

(ii) Statistical data and commercial or financial information concerning contract performance, income, profits, losses and expenditures, if offered and received in confidence from a contractor or potential contractor.

(iii) Information customarily considered privileged or confidential under the rules of evidence in the Federal courts, such as information coming within the doctor-patient, lawyer-client, and priest-penitent privileges.

(iv) Personal statements given in the course of inspections, investigations, or audits, where such statements are received in confidence from the individual and retained in confidence because they cover trade secrets or commercial or financial information normally considered confidential or privileged or because they are essential to an effective inspection, investigation, or audit.

(v) Data provided in confidence by private employers in connection with locality wage surveys which are used to fix and adjust pay schedules applicable to prevailing rate employees within the Department of Defense.

(5) Except as provided in (ii) through (v) internal communications within and among agencies (as defined in 5 U.S.C. 551 (Section 2 of the Administrative Procedure Act) and components.

(i) Examples include:

(A) Staff papers containing staff advice, opinions, or suggestions.

(B) Information received or generated by a component preliminary to a decision or action, including draft versions of documents, where premature disclosure would interfere with the orderly conduct of government. (Preliminary or draft documents received from other governmental organizations are not Department of Defense records and may not be released by component without the agreement of the organization.)

(C) Advice, suggestions, or reports prepared on behalf of the Department of Defense by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed by a component to obtain advice and recommendations, or by individual consultants.

(D) Those portions of component evaluations of contractors and their products which contain recommendations or advice by government employees about the contractor or product.

(E) Advance information on such matters as proposed plans to procure, lease, or otherwise acquire and dispose of materials, real estate, facilities, or functions when such information would provide undue or unfair competitive advantage to private personal interests.

(F) Records which are exchanged among agency personnel or within and among components or agencies preparing for anticipated legal proceedings before any Federal, State, or military court or before any regulatory body.

(G) Reports of inspections, audits, investigations or surveys which pertain to safety, security, or the internal management, administration, or operation of the Department of Defense or one of its components.

(ii) If any such intra- or inter-agency record, or reasonably segregable portion of such record would routinely be made available through the discovery process in the course of litigation with the agency (i.e., the process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing), then it should not be withheld from the general public. If, however, the information would only be made available through the discovery process by special order of the court based on the particular needs of a litigant balanced against the interests of the agency in maintaining its confidentiality, then the record or document should not be made available to a member of the general public.

(iii) Intra- or inter-agency memorandums or letters which are factual, or those reasonably segregable portions which are factual, are routinely made available through discovery, and should, therefore, be made available to a requester unless the factual material is otherwise exempt from release under § 286.6(b).

(iv) A direction or order from a superior to a subordinate, though contained in an internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters that would compromise the decision-making process.

(v) An internal communication concerning a decision which subsequently has been made a matter of public record should normally be made available to a requester when it furnishes the best support, explanation, or rationale for the decision.

(6) Information in personnel and medical files, as well as information in similar files, that, if disclosed to a member of the public, would result in a clearly unwarranted invasion of personal privacy.

(i) Examples of files similar to personnel and medical files include:

(A) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment and the eligibility of individuals, civilian, military or industrial, for security clearances, or for access to particularly sensitive classified information.

(B) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(ii) In determining whether the release of information would result in a "clearly unwarranted invasion of personal privacy," consideration should be given to the stated or assumed purpose of the request. When determining whether a release is "clearly unwarranted invasion of personal privacy," consideration should be given to the stated or assumed purpose of the request. When determining whether a release is "clearly unwarranted," the public interest in satisfying this purpose must be balanced against the sensitivity of the privacy interest being threatened.

(iii) When the only basis for withholding information is protection of the personal privacy of an individual who is the subject of the record, the information should not be withheld from him or from his designated legal representative. A clearly unwarranted invasion of the privacy of others appearing in that record may, however, constitute a basis for deleting reasonably segregable portions of the record even when providing it to the subject of the record.

(iv) An individual's personnel, medical, or similar file may be withheld from him or from his designated legal representative only to the extent consistent with 5 U.S.C. 552a (The Privacy Act of 1974—Effective on September 27, 1975).

(7) Those investigative records compiled for the purpose of enforcing civil, criminal, or military law, including the implementation of Executive Orders, or regulations validly adopted pursuant to law,

(i) But only to the extent that their release would:

(A) Interfere with enforcement proceedings;

(B) Deprive a person of the right to a fair trial or an impartial adjudication;

(C) Constitute an unwarranted invasion of personal privacy;

(D) Disclose the identity of a confidential source;

(E) Disclose confidential information furnished only from a confidential source obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation;

(F) Disclose investigative techniques and procedures not already in the public domain and requiring protection against public disclosure to insure their effectiveness;

(G) Endanger the life or physical safety of law enforcement personnel.

(ii) Examples include:

(A) Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related government litigation or adjudicative proceedings.

(B) The identity of firms or individuals suspended from contracting with the Department of Defense or being investigated for alleged irregularities when no indictment has been obtained nor any civil action filed against them by the United States.

(C) Information obtained in confidence, express or implied, in the course of: (*1*) a criminal investigation by a criminal law enforcement agency or office within a component; or (2) a lawful national security intelligence investigation conducted by an authorized agency or office within a component for the purpose of obtaining: (i) affirmative or counterintelligence information, or (ii) background investigation information needed to determine suitability for employment or eligibility for access to classified information.

(iii) The right of individual litigants to investigative records currently available by law is not diminished.

(iv) When the subject of an investigative record is the requester of that record, it may be withheld after September 27, 1975, only in accordance with regulations implementing 5 U.S.C. 552a (The Privacy Act of 1974—Effective on September 27, 1975). After September 27, 1975, the effective date of 5 U.S.C. 552a (The Privacy Act of 1974), the identity of the source of information obtained in confidence may be withheld in accordance with an implied or express promise of confidentiality given prior to that date and in accordance with an express promise of confidentiality after that date. Information from which the confidential source can be deduced may also be withheld.

(8) Those contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(9) Those containing geological and geophysical information and data (including maps) concerning wells.

§ 286.7 Responsibilities.

(a) The head of each component shall be responsible for:

(1) Establishing procedures governing actions on initial and appealed requests for records under this Part.

(2) Establishing procedures in accordance with DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972, and DoD Regulation 5200.1-R, "DoD Information Security Program Regulation," November 15, 1973 (32 CFR 159), to insure that all holders of copies of records classified by the component are notified when reviewed has resulted in their declassification.

(3) Issuing implementing regulations that clearly identify those officials responsible for responding to requests under this Part for records which are under the jurisdiction of the component.

(4) Insuring cooperation with the Assistant Secretary of Defense (Public Affairs) (ASD(PA)) in fulfilling his responsibilities for monitoring the implementation of this Part.

(5) Designating an office or official as the principal point of contact and coordination with the ASD(PA).

(6) Advising the ASD(PA) of cases of public interest, particularly those on appeal, when the issues raised are unusual, precedent setting, matters of disagreement among components, of concern to other agencies outside the Department of Defense, or otherwise requiring special attention or guidance.

(7) Advising the ASD(PA) concurrent with the denial of a request or an appeal when circumstances suggest a news media interest.

(8) Preparing and submitting reports in accordance with § 286.15.

(9) Establishing, in coordination with the ASD(PA), programs of instruction on the provisions and requirements of this Part for officials and employees who contribute to the component's implementation of the Freedom of Information Act.

(10) Responding to the corrective action recommended by the Civil Service Commission for arbitrary or capricious withholding of records requested pursuant to 5 U.S.C. 552, as amended by Pub. L. 93-502 by officers or employees of the component.

(b) The Assistant Secretary of Defense (Public Affairs) shall:

(1) Direct and administer the Department of Defense Freedom of Information Program through a Deputy Assistant Secretary and a Directorate for Freedom of Information, which are hereby designated and established in accordance with DoD Directive 5400.10, "OSD/OJCS Implementation of the Freedom of Information Program," February 19, 1975, 40 FR 7242.

(2) Accomplish program overview, in cooperation with the Assistant Secretary of Defense (Comptroller) and the General Counsel, to insure coordinated guidance to components and to provide the means of assessing the overall conduct of the Department's Freedom of Information Program.

(3) Provide Department-wide policy guidance to components as pertains to the overall conduct of the Department's Freedom of Information Program.

(4) Act upon information provided by components as specified in § 286.7(a)(6).

(5) Direct surveys and studies to facilitate implementation of this Part and activities related to the Freedom of Information Program.

(6) Develop a block of instructions on the provisions and requirements of this Part and 5 U.S.C. 552, as amended by Pub. L. 93-502 for inclusion in the curriculum of the Defense Information School.

(7) Evaluate the Freedom of Information education programs of components.

(8) Confer with the head of a component on the desirability of reconsidering a final decision to deny a record when that decision becomes a matter of special concern because it involves an issue of great public interest or DoD-wide consequence.

(9) Forward a composite annual report to Congress in accordance with § 286.15.

(10) Modify or supplement, with the concurrence on the General Counsel and the ASD(C), any of §§ 286.10-286.16 to this Part in a manner consistent with the policies set forth in this Part after such coordination with the military departments and Defense agencies as may be appropriate.

(11) Prepare implementing provisions for the Office of the Secretary of Defense, including the organization of the Joint Chiefs of Staff.

(c) The General Counsel of the Department of Defense shall insure uniformity in the legal position and interpretation of this Part by all DoD components and coordination with the Department of Justice, as necessary, on all final denials of requests for records under this Part that are likely to lead to litigation.

§ 286.8 Implementation.

(a) Each component of the Department of Defense shall issue and publish in the FEDERAL REGISTER regulations to implement 5 U.S.C. 552, as amended by Pub. L. 93-502, unless subject to the implementing regulations of another component. The implementing regulations of Defense agencies may incorporate this Part by reference as their substantive requirements, and limit their separate publications to a description of component responsibilities and procedures. Processing of requests for the records of Headquarters of Unified, Specified and Subordinate Unified Commands shall be processed under the administrative directives of the military departments indicated in DoD Directive 5100.3, "Support of the Headquarters of Unified, Specified, and Subordinate Unified Commands," March 16, 1967, (32 FR 5569) Any substantive inconsistencies between this Part and component regulations

shall be reconciled within ninety days of the effective date of this Part.

(1) By mutual agreement, facilities for the examination and copying of documents and records may be shared by more than one component if the public is not unduly inconvenienced by such an arrangement.

(2) When the provisions of this Part, related DoD issuances, or component regulations do not provide guidance adequate to insure consistency among the components in determining the disposition of requests for particular types of records, the matter shall be brought to the attention of the ASD(PA) with a request for supplementary guidance. Consistency does not preclude the ad hoc release of an individual record generally considered exempt from disclosure, when no significant or legitimate governmental purpose would be served by withholding it.

(b) Two copies of implementing regulations shall be submitted to the General Counsel of the Department of Defense no later than March 1, 1975.

§ 286.9 Effective date.

This Part is effective February 19, 1975. Public comments and recommendations received on or before April 18, 1975, however, will be considered in determining the need for modification of this Part, in conjunction with the reconciliation between component regulations and this Part.

§ 286.10 Uniform agency fees for search and duplication under the Freedom of Information Act Amendments—Pub. L. 93–502.

Introduction.—This section describes fees for search and duplication. It is not intended to substitute for any schedule of fees or a policy of not to charge a fee established in connection with the issuance of publications or other materials in the routine course of business of a component.

SCHEDULE OF FEES

DUPLICATION

Publications, Forms and Reports. Shelf stock of printed or microfiche medium (requesters may be furnished more than one copy of a publication or form if it does not deplete stock levels below projected planned usage).

Minimum fee, per request	$2.00
plus	
Forms, per copy	.05
Publications, per printed page	.01
Microfiche, per fiche	.06
Reports, per printed page	.05
(Examples: Cost of 20 forms, $3; cost of a printed publication with 100 pages, $3; cost of a microfiche publication consisting of 10 fiche, $2.60)	

OFFICE COPY REPRODUCTION WHEN SHELF STOCK IS NOT AVAILABLE

Minimum charge up to six reproduced pages	2.00
Minimum charge, first fiche	5.00
Each additional page	.05
Each additional fiche	.10

OTHER ISSUANCES

Minimum charge up to six pages	2.00
Each additional page	.05

SEARCH

Clerical search, per hour	5.50
Minimum charge	2.75
Professional search (includes computer programer time and review to determine whether a record comes within the scope of a request) per hour	11.00
Minimum charge	5.50

Computer service charges. Computer service charges will be based on actual computer configuration used and be based on direct costs only of the Central Processing Unit, plus Input/Output Devices, plus Memory Capacity. Transportation costs of records and personnel arising from searches for requesting reports will be charged at actual cost.

Audiovisual documentary material. Service charges for audiovisual documentary materials will include clerical and professional search fees as listed above as well as the direct costs of reproducing the photography or tape and shipping or mailing charges. Audiovisual materials provided a requester under provisions of this Part need not be in reproducible format or quality.

Waiver of fees. (a) In general, charges shall be waived or reduced when it is determined that release of a requested record primarily benefits the general public and, therefore, is in the public interest. Examples of common situations in which such a determination may be made include:

(1) The recipient of the benefits is engaged in a nonprofit activity designed for public safety, health or welfare;

(2) Payment of the full costs or fee by a state, local government or nonprofit group would not be in the interest of the program;

(3) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity;

(4) The request emanates from a representative of the public information media seeking a reasonable number of records.

(b) A refusal to waive charges by the official responsible for the initial decision on the request for the record may be appealed to the head of the component or his designee for purposes of final appeal.

Collections. (a) Normally, collection of charges and fees will be made in advance of rendering the service. In some instances, it may be more practical to collect charges and fees at the time of conveying the service or property to the recipient, but only in those instances where the request specifically states that whatever cost involved will be acceptable or acceptable up to specified limit that covers anticipated costs.

(b) Collection of scheduled fees and charges will normally be deposited to Miscellaneous Receipts of the Treasury.

(c) Search fees are assessable even when no records responsive to the request, or no records not exempt from disclosure are found, provided the requester is advised of the requirement at the time the estimated charges are presented to the requester for approval and he agrees to incur the cost of search.

§ 286.11 Inspection and copying of opinions, orders, and manuals.

(a) Subject to the exemptions set forth in § 286.6 of this Part, each component shall make available for public inspection and copying in an appropriate facility or facilities in accordance with rules published in the FEDERAL REGISTER the following materials, unless such materials are published and copies offered for sale:

(1) All final opinions (including concurring and dissenting opinions) and orders in adjudications (as defined in 5 U.S.C. 551 (section 2 of the Administrative Procedure Act) that may be cited, used, or relied upon as precendents in future adjudications.

(2) Statements of policy and interpretations of less than general applicability affecting the public but not published in the FEDERAL REGISTER.

(3) Administrative staff manuals and instructions, or portions thereof, which establish Department of Defense policy or interpretations of policy that affect a member of the public. This provision does not apply to instructions for employees on the tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of the agency. Examples of manuals and instructions not normally made available are:

(i) Those issued for audit and inspection purposes or those which prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(ii) Operations and maintenance maanuals and technical information concerning munitions, equipment, systems, and foreign intelligence operations.

(b) The cost to the component of copying any such opinion, order, or statement of policy or interpretation shall be imposed on the person requesting the copy in accordance with § 286.11.

(c) When feasible, all material that is published in the FEDERAL REGISTER should be made available for inspection and copying along with any available index of that published material, in the same facility or facilities provided for inspection and copying of opinions, orders and manuals.

(d) Identifying details which if revealed would create a clearly unwarranted invasion of personal privacy may be deleted from any final opinion, order, statement of policy, interpretation, staff manual, or instruction, made available for inspection and copying. In every such case, the justification for the deletion must be fully explained in writing. However, a component may publish in the FEDERAL REGISTER a description of the basis upon which it will de-

lete identifying details of particular types of documents in order to avoid clearly unwarranted invasions of privacy. In appropriate cases the component may refer to this description rather than write a separate justification for the deletion.

(e) Each component shall maintain, on a current basis, in each facility provided for inspection and copying, an index of material issued, adopted, or promulgated after July 4, 1967, which is made available or published under paragraph (a).

(1) The index should be arranged topically or by descriptive words, so that members of the public may be able to locate final opinions, orders, statements of policy, interpretations, staff manuals, or instructions by subject, rather than by case name or by numbering system. Case name and numbering arrangements may, however, also be included in the index for purposes of component convenience.

(2) Each component shall promptly publish quarterly or more frequently and distribute (by sale or otherwise) copies of each such index or supplement thereto unless it publishes an order in the FEDERAL REGISTER containing a determination that publication is unnecessary and impracticable. A copy of any index or supplement not published shall be provided to a requester at a cost which does not exceed the direct cost of duplication.

(f) No order, opinion, statement of policy, interpretation, staff manual, or instruction issued, promulgated, or adopted after July 4, 1967, which is not indexed and either made available or published, may be relied upon, used, or cited as precedent against any member of the public unless he has actual and timely notice of its terms. If the order, opinion, statement of policy, interpretation, staff manual, or instruction was issued, promulgated, or adopted before July 4, 1967, it need not be indexed but must be made available in accordance with § 286.5.

(g) In determining whether an order, opinion, statement of policy, interpretation, staff manual or instruction is likely to be used or relied upon as precedent, the primary test shall be whether it is intended to provide binding guidance for decisions or evaluations by subordinates or for future decisions by the same authority in adjudications of cases affecting the public, where similar facts or issues are presented.

§ 286.12 Identification and marking "for official use only".

(a) Records which are not classified under DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972, and DoD Regulation 5200.1-R, "DoD Information Security Program Regulation," November 15, 1973 (32 CFR 159), but which at the time of their origination are authorized by 5 U.S.C. 552, as amended by Pub. L. 93-502, to be withheld from general public disclosure under § 286.6 of this Part, and which for a significant and legitimate governmental purpose should not be given general circulation shall be considered as being "for official use only" (FOUO). No other record may be considered as being "for official use only."

(b) A record that is considered "for official use only" may be marked "for official use only" when such marking is deemed necessary or desirable to ensure that all persons having access to the record are aware that it should not be publicly released and should not be handled indiscriminately. Individual folders, records, and files covering specific kinds of subject matter normally falling within the exemptions of § 286.6, such as personnel and medical files, bids, proposals, and the like, which are covered by rules and regulations specifying what may be released publicly, do not require the "FOUO" marking unless handled under circumstances where marking is desirable to ensure protection of the information involved.

(1) The marking, if otherwise proper under this Part, may be applied to information or material which has been declassified.

(2) The marking may not be employed as a less stringent security designation under conditions where classification under DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972, and DoD Regulation 5200.1-R, "DoD Information Security Program Regulation," November 15, 1973 (32 CFR 159), is not warranted.

(3) Information contained in a technical document for which a determination has been made that a distribution statement under DoD Directive 5200.20, "Distribution Statements (Other Than Security) on Technical Documents," September 24, 1970,[1] is appropriate shall not be marked "FOUO."

(c) Material which is considered as being "for official use only" must be safeguarded from general disclosure irrespective of whether the material is physically marked with the term "for official use only."

(d) Whenever necessary to assure proper understanding, or appropriate as a means of facilitating segregation of exempt information in a lengthy record, individual paragraphs which contain FOUO information shall be marked "for official use only." In classified documents, this marking should be applied only to paragraphs which contain FOUO information and do not contain classified information.

(e) Instructions regarding marking, safeguarding, and transmitting FOUO materials are set forth in DoD Instruction 5025.9, "Control and Protection of FOR OFFICIAL USE ONLY Information," February 1, 1968.

§ 286.13 Release procedures.

(a) The policy of the Department of Defense is to make the maximum amount of information available to the public. Therefore, when a person requests in writing that a record be made available to him under the Freedom of Information Act that request may be denied only upon determination that:

(1) The record is subject to one or more of the exemptions set forth in § 286.6, and a significant and legitimate governmental purpose is served by withholding it.

(2) Release of the record is inconsistent with a statutory requirement or other requirement of law.

(3) The record cannot be found because it has not been described with sufficient particularity to enable the component to locate it with a reasonable amount of effort.

(4) The applicant has unreasonably failed to comply with the procedural requirements (including the payment of any required fee) imposed by the implementing regulations of the component concerned. When personally identifiable information in a record is requested by the subject of the record, for example, notarization of the request may be required.

(b) The initial determination of whether to make a record available upon request may be made at any suitable level and by any suitable official designated by the component in published regulations for the type of record sought. The marking or absence of the marking "for official use only" does not relieve the designated official of his responsibility to review the requested record for the purpose of determining whether an exemption under § 286.6 is applicable.

(c) The official designated by a component to make initial determinations, if not a public affairs officer, should consult with public affairs officers to familiarize himself with subject matter considered to be newsworthy, and advise them of all requests from news media representatives. In addition, he should inform public affairs officers in advance whenever he intends to release a record containing potentially newsworthy material or to withhold any record when it is likely that the withholding action will be publicly challenged.

(d) Initial determinations on whether to release a record shall:

(1) Normally be made and the decision reported to the requester within ten (10) working days of the date a request is received by the official designated to respond for the type of record sought, providing the requester indicates a willingness to reimburse the component for any search and duplication costs incurred in providing the record. If the willingness of the requester to reimburse the component for any required search and duplication costs is not expressed in the request, resolution of this issue is appropriate before the time for responding begins to run when these costs are likely to be substantial.

(2) When the request is addressed to another official in the component or to the wrong agency or component, it shall normally be forwarded promptly to the designated responsible official, of the appropriate agency or component, with the period for response commencing upon his receipt.

(3) When a decision is made to release a record, it should be forwarded promptly to the requester upon receipt of any required payment for search and duplication. Alternatively, the requester may be directed to an established source from which members of the public may obtain the record sought (e.g., the U.S. Government Printing Office).

(4) When a request is received for a record which:

(i) Was obtained by the Defense Component from a non-U.S. Government source; or

(ii) Contains *information* obtained by the Defense component from non-U.S. Government source; and, because of the source and the nature of the records or information, there is reason to believe that the source of the information or record may object to release and may have an enforceable right to prevent release, prompt notification of intended release shall be given to the source. Release shall normally be withheld until the source has a reasonable time to comment on the proposed release. Comments received shall be considered in determining the releasability of the document. When the source advises that it is seeking a restraining order or other court action to prevent release, release will normally not be made pending the outcome of the court action.

(5) In all cases where the time for response may become an issue, the official responsible for replying should acknowledge to the requester the date of the receipt of the request for purposes of determining time limits.

(6) If additional time is needed in unusual circumstances to respond the component should acknowledge the request in writing within the ten (10) day period, briefly cite one of the unusual circumstances requiring delay, and indicate the anticipated date for substantive response which may not exceed ten (10) additional working days. Unusual circumstances that may justify delay are:

(i) The requested record is located in whole or part at places other than the office processing the request.

(ii) The request requires the collection and coordination of a substantial number of records.

(iii) Consultation is required with other components or agencies having substantial interest in the subject matter of the requested records to determine whether the records requested in whole or part are exempt from disclosure under § 286.6 or should be released as a matter of discretion.

(e) The extension of time for responding to an initial request must be approved on a case by case basis by the final appellate authority for the component or in accordance with regulations of the component which establish guidance governing the circumstances in which such extensions may be granted.

(f) When a request for a record or records is denied in whole or part the designated official who has made that determination shall explain to the requester in writing (with at least one additional copy) the basis for the determination and of the opportunity and procedures for appealing that determination to a higher final authority within the component.

(1) Inability to process any part of the request within the specified time should be explained to the requester, with notification that he may treat this delay as an initial denial with a right to appeal, that he may agree to await a substantive response by an anticipated date. It should be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is made.

(2) The explanation of the substantive basis for a denial shall include both specific citation of the statutory exemption applied pursuant to § 286.6 and a discussion of the significant and legitimate governmental purpose served by invoking an exemption. Reference to the marking "for official use only" on the requested record does not constitute a proper citation or explanation of the basis for invoking an exemption.

(3) The name and title or position of the official responsible for the denial shall be included in the written response to the requester.

(4) When the initial denial is based in whole or part on a security classification pursuant to § 286.6(c)(1) or § 286.6(c)(3), the explanation shall include a summary of the paragraph or paragraphs contained in DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972, and DoD Regulation 5200.1–R, "DoD Information Security Program Regulation," November 15, 1973 (32 CFR 159), or other authoritative classification guidance which set forth the criteria or rationale for the current classification of the requested record, along with the reasons that demonstrate the logical relationship between the content of the requested record and the summarized criteria or rationale.

(5) Copies of all initial denials shall be maintained by each component in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation.

(g) If the official designated by the component to make initial determinations on requests for records declines to provide a record because he considers it exempt, and its withholding justified for a significant and legitimate governmental purpose, that decision may be appealed by the requester in writing to the head of the component having jurisdiction over the record or his designee for this purpose, along with a copy of the letter denying the initial request. Such appeals should contain the basis for disagreement with the initial refusal. In addition, the component may impose a reasonable time limit of not less than forty (40) days for filing an appeal.

(h) Final determination on appeals shall normally be made within twenty (20) working days of the receipt of the appeal by the official designated to make the decision. Misdirected appeals will be forwarded promptly to the proper appellate authority with the period for response commencing upon his receipt. If additional time is needed to decide the appeal because of unusual circumstances, as described in paragraph (d), the final determination may be delayed for the number of working days, not to exceed ten (10), which were not utilized as additional time for responding to the initial request.

(i) Final refusal to provide a requested record must be made in writing by the head of the component having jurisdiction over it, or by his designee for that purpose. Such a refusal shall be made in accordance with appeal procedures prescribed in regulations that shall include, as a minimum, the following elements:

(1) The basis for the refusal shall be explained to the requester, in writing, both with regard to the applicable statutory exemption invoked pursuant to § 286.6 and the significant and legitimate government purpose served by its withholding. More particularly:

(i) When the final refusal is based in whole or part on a security classification, pursuant to § 286.6(c)(1) or § 286.6(c)(3):

(A) The explanation shall include a determination that the record meets the cited criteria and rationale of DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972, and DoD Regulation 5200.1–R, "DoD Information Security Program Regulation," November 15, 1973 (32 CFR 159), or other authoritative classification guidance, and that this determination is based on a declassification review, with an explanation of why that review confirmed the continuing validity of the security classification.

(B) The requester shall be advised of his optional right to seek review by the Interagency Classification Review Committee of a final denial by the head of a component or his designee on the basis of continued security classification. This review is in accordance with Executive Order 11652, March 8, 1972, and is in lieu of immediate judicial review.

(ii) The written final denial shall include the name and title or position of the official responsible for the denial and of the provision for judicial review of the denial as set forth in § 286.14.

(2) Final refusal ordinarily should not be made without prior consultation with the Office of the General Counsel of the Department of Defense when there is reason to believe that the requester will file a complaint in a U.S. District Court to force release of the refused record.

(3) Copies of all final denial letters shall be maintained by each component in a central repository. Whenever a complaint is filed in a U.S. District Court to force release of a record, a copy of the final denial letter from the component shall be forwarded to the General Counsel of the Department of Defense, together with a copy of the requester's complaint, and followed by such portions of the litigation report prepared by the

component for the Department of Justice as may be necessary to understand the legal basis for the denial.

(4) When the refusal to provide the record is based in whole or part on a security classification, pursuant to § 286.6(c)(1) or § 286.6(c)(3), the litigation report shall include an affidavit from the head of the component or his designee for this purpose, explaining in as much detail as national security interests permit the basis under applicable statute, executive order and regulations for the current security classification of the requested record.

(j) The costs of searching for and duplicating a requested record must be paid or waived in accordance with § 286.10. The time limits for responding to requests begin to run upon receipt from the requester of clear evidence of willingness to pay any anticipated search and duplication costs under the schedule of fees set forth in § 286.10 for providing the requested record. The record need not be forwarded until actual receipt of payment.

(k) The time limits for responding to requests for records are, in summary, and subject to the conditions set forth in the previous paragraphs, as follows:

(1) Initial Responses—Ten (10) working days.

(2) Appeals for Denial—Twenty (20) working days.

(3) Extension of time available under certain circumstances for either the initial or final determination, but not both—ten (10) working days.

§ 286.14 Judicial action.

(a) A requester has exhausted his administrative remedy after he has been refused a record by the head of a component or his designee or when the component fails to respond to his request within any of the time limits set forth in § 286.13. The requester may then seek an order from a United States District Court (1) in the district in which he resides or has his principal place of business; (2) in the district in which the record is situated to produce the record; or (3) in U.S. District Court for the District of Columbia.

(b) The burden is on the component to justify its refusal to produce the record, and its justification will be evaluated *de novo* by the district court, which may examine any requested record in camera to determine whether the denial of the record, in whole or part, is justified under 5 U.S.C. 552, as amended by Pub. L. 93–502.

(c) The United States must answer or otherwise plead to the complaint within thirty days. Consideration of such cases by both trial courts and courts of appeal will be expedited in every way; except as to cases the court considers of greater importance.

(d) A court may retain jurisdiction and allow a component additional time to complete its review of records to determine their availability to the requester when the component demonstrates due diligence in exceptional circumstances.

(e) If the court orders production of a record and the responsible official designated in accordance with § 286.7 refuses to produce it, the court has statutory authority to punish the official whose decision and order govern the determination of whether to release the record. In addition, the court may assess against the United States reasonable attorney fees and other litigation costs when the requester has substantially prevailed. In such situations the court may also issue a written finding that the circumstances of withholding raise a question of whether agency personnel have acted arbitrarily or capriciously and the Civil Service Commission must determine whether disciplinary action against responsible agency officials, or employees is warranted.

§ 286.15 Reporting requirement.

(a) Each component shall prepare an annual report for the preceding calendar year on its implementation of 5 U.S.C. 552, as amended by Pub. L. 93–502, of this Part.

(b) Six copies of the annual report shall be furnished to the ASD(PA) on or before February 1 of each year for transmittal to the Speaker of the House of Representatives and to the President of the Senate.

(c) The annual report shall contain the following:

(1) The number and reasons for initial denial of records requested from the component.

(2) The number of appeals from initial denials and the disposition of each such appeal; with the reasons for any final denial of records requested from the component.

(3) The names and titles or positions of each person primarily responsible for an initial denial or for a final denial on appeal of a request for a record under 5 U.S.C. 552, as amended by Pub. L. 93–502, and the number of such denials by each such person.

(4) The results of any disciplinary proceeding, including an explanation of a decision not to discipline, that was initiated against an officer or employee because a court determined that a record requested from the component was arbitrarily or capriciously withheld.

(5) A copy of current component regulation implementing 5 U.S.C. 552, as amended by Pub. L. 93–502, and this Part.

(6) A copy of the component fee schedule for search and duplication of requested records, and the total amount collected for this purpose, as accurately as reasonably can be determined.

(7) A brief description of every court case brought against the component to force it to release or withhold a record requested under 5 U.S.C. 552, as amended by Pub. L. 93–502, including the status of the case; whether attorney fees have been awarded to the private party; and whether the court found that the circumstances of withholding raised questions of arbitrary and capricious personnel conduct.

(8) A description of all efforts undertaken by the component or by personnel of the component to instruct and educate employees or the public on the requirements of 5 U.S.C. 552, as amended by Pub. L. 93–502, and this Part.

(9) Such data on the costs of processing requests under 5 U.S.C. 552, as amended by Pub. L. 93–502, as can reasonably be ascertained or estimated.

(10) Any other information that demonstrates efforts by the component to implement 5 U.S.C. 552, as amended by Pub. L. 93–502, including problems with the implementation and any proposed solutions for those problems.

(11) This reporting requirement is assigned Report Control Symbol DD–PA (A) 1365.

§ 286.16 Release and authentication of copies of official records.

(a) Records available to a person requesting them under § 286.5 of this Part shall be authenticated with an appropriate seal whenever necessary to fulfill an official governmental or other legal function.

(b) Subject to the provisions of DoD Directive 5200.1, "DoD Information Security Program," June 1, 1972, and DoD Regulation 5200.1–R, "DoD Information Security Program Regulation," November 15, 1973 (32 CFR 159); applicable to classified information, records exempt from release under § 286.6 to a person requesting them may, nevertheless, be authenticated on request and released in accordance with component regulations to local, state, or other Federal governmental bodies, whether legislative, executive, administrative, or judicial, as follows:

(1) To the courts; whenever ordered as appropriate to the proper administration of justice.

(2) To the Congress; in accordance with DoD Directive 5400.4, "Provision of Information to Congress," February 20, 1971.

(3) To local and state legislative bodies; in accordance with the determination of the head of the component or his designee.

(4) To other Federal agencies, both executive and administrative, as determined by the head of the agency or his designee, as consistent with efficient administration and in accordance with law, including 5 U.S.C. 552a (The Privacy Act of 1974), which becomes effective on September 27, 1975.

(5) To local and state executive and administrative agencies as determined by the head of the component or his designee.

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

FEBRUARY 24, 1975.

[FR Doc.75–5181 Filed 5–25–75;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 373—SPECIAL LICENSING PROCEDURES

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

Distribution and Export Licenses

DELETION OF DOLLAR-VALUE LIMITATION ON DISTRIBUTION LICENSES

Applicants for Distribution Licenses (§ 373.3) have been required to indicate dollar values for the commodities they intended to ship during the validity period of the license. Modifications to the procedure and computerized accounting for shipments have diminished the need for these value estimates. Consequently, values need not be shown on future applications for Distribution Licenses.

ESTABLISHMENT OF SPECIAL REQUIREMENTS FOR MACHINE TOOLS AND/OR NUMERICAL CONTROLS

The *Export Administration Regulations* are revised to require certain essential information relating to performance characteristics of machine tools and/or numerical controls (Export Control Commodity Nos. 71510 and 7295) on applications for licenses for export to Country Groups Q, W, or Y. Previously, the issuance of an export license has often been delayed pending receipt of this information.

PARTS, COMPONENTS, AND MATERIALS IN FOREIGN-MADE END PRODUCTS

The *Export Administration Regulations* (§ 376.12) state that the use abroad of U.S.-origin parts and components in the manufacture or production of foreign-made end products is subject to the export control laws of the United States. Prior written authorization from the Office of Export Administration to use U.S.-origin parts and components in the manufacture or production of a foreign-made end product that is to be exported from the country of manufacture has not been required when the end product, if it were of U.S. origin, could be exported from the United States to the new country of destination under General License *G-DEST*.

The *Export Administration Regulations* are now revised to indicate that prior written authorization from the Office of Export Administration is not required when *either* the U.S.-origin parts and components, *or* the foreign-made end product if it were of U.S.-origin, could be exported from the United States to the new country of destination under General License *G-DEST*.

1. Accordingly, the Export Administration Regulations (15 CFR Part 373) are amended by deleting and reserving paragraph (d)(3)(ii)(*e*) and revising paragraphs (d)(3)(ii)(*g*), (h)(1) and (k) to read as follows:

§ 373.3 Distribution license.

* * * * *

(d) * * *

(3) * * *

(ii) * * *

(*e*) [Reserved]

* * * * *

(*g*) Leave blank the space entitled "Quantity To Be Shipped," "Export Control Commodity No. and Processing No.," "Unit Price," and "Total Price."

* * * * *

(h) *Export Clearance*—(1) Value of shipments. There is no value limitation on shipments under a valid distribution license. The value of each shipment must be shown on the Shipper's Export Declaration.

* * * * *

(k) *Amendment of License*—If the exporter desires to add a new consignee, he should file a Form DIB–678P or FC–1143 together with Form IA–763, Request for and Notice of Amendment Action (see Supplement S–4 for facsimile of form) in accordance with the provisions of § 372.11. If the new consignee is a foreign government agency, a Form DIB–678P or FC–1143 need not be submitted, but this fact must be entered in the "Amend License to Read as Follows" space on the Form IA–763. An amendment request to extend the validity period of an existing Distribution License shall be submitted on Form IA–763, every other renewal period, supported by the following certification:

I (We) certify that all the facts and intentions set forth in our previously submitted comprehensive narrative statement remain the same, except (enter the word "none", or specify the changes).

In addition, any new consignees added to the license must be documented by submitting a Form DIB–678P or FC–1143. The extended validity period will be of two-year duration unless a one-year period is specifically requested. In those years when renewal by Form IA–763 will not be allowed, a complete new application must be submitted in accordance with the provisions of § 373.3(d)(3).

* * * * *

2. Accordingly, the Export Administration Regulations (15 CFR Part 376) are amended by adding new § 376.11 to read as follows:

§ 376.11 Machine tools and/or numerical controls.

An application for a license to export or reexport machine tools and/or numerical controls (Export Control Commodity Numbers 71510 and 7295) to Country Groups Q, W, and Y shall include the following information as applicable:

(a) *Machine tools*—(1) Name and model number;

(2) Type;

(3) The number of continuous path controlled axes;

(4) The number of machine axes that can be simultaneously controlled in a contouring mode regardless of the number of axes that are simultaneously controlled by the control system;

(5) The number of positioning axes;

(6) The slide travel for each axis (X, Y, Z, U, V, W, R, or Other);

(7) The guaranteed no load positioning accuracy of each slide over total travel (X, Y, Z, U, V, W, R, or Other);

(8) The spindle horsepower;

(9) The maximum variable controlled feedrate;

(10) The rapid traverse rate; and

(11) The number of working spindles.

(b) *Control systems*—(1) Name and model number;

(2) Specify whether CNC (Computerized Numerical Control);

(3) Specify whether completely hardwired;

(4) Specify read only memory;

(5) Specify number of simultaneously controlled contouring axes and Interpolation (Linear and/or Circular);

(6) Specify number of simultaneously controlled contouring axes that can be optionally procured with this control system and Interpolation (Linear and/or Circular);

(7) The number of positioning axes;

(8) Specify the minimum programable increment for each axis;

(9) Specify tape reader speed in characters per second;

(10) Specify whether buffered storage;

(11) Specify incorporation of interface for direct computer input;

(12) Describe any software to be supplied as part of the transaction; and

(13) Describe optional accessories that are to be included as part of the subject control system.

3. Accordingly, the Export Administration Regulations (15 CFR Part 376) are amended by revising the Note in § 376.12 to read as follows:

§ 376.12 Parts, components, and materials in foreign-made end products.

* * * * *

NOTE.—Consistent with the provisions of § 374.2, regarding permissive reexports, prior written authorization is *not* required from the Office of Export Administration for the incorporation abroad of U.S.-origin parts and components in a foreign-made end product that will be exported to another country, *provided* that either the U.S.-origin parts and components, or the end product if it were of United States origin, could be exported from the United States to the new country of destination under General License *G-DEST*.

Effective date: The above actions are effective February 21, 1975.

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc.75-5132 Filed 2-25-75;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

[ADM 7900.2 CHGE 2]

PART 105–60—PUBLIC AVAILABILITY OF AGENCY RECORDS AND INFORMATIONAL MATERIALS

GSA Regulations Pursuant to "Freedom of Information Act"

The following is an extensive revision of existing General Services Administration regulations pertaining to the Freedom of Information Act primarily to implement the Freedom of Information Act Amendments of 1974, and to make other changes.

Part 105–60 is revised as follows:

Sec.

105–60.000 Scope of part.

Subpart 105–60.1—General Provisions

105–60.101 Purpose.
105–60.102 Application.
105–60.103 Definitions.
105–60.104 Policy.
105–60.104–1 Availability of records and other informational materials.
105–60.104–2 Exemptions.
105–60.105 Congressional information.
105–60.106 Records of other agencies.
105–60.107 Records involved in litigation or other judicial process.
105–60.108 Inconsistent issuances of GSA superseded.

Subpart 105–60.2—Publication of General Agency Information and Rules in the Federal Register

105–60.201 Published information and rules.
105–60.202 Published materials available for sale to the public.
105–60.203 Effect of failure to publish.
105–60.204 Coordination of publication.
105–60.205 Incorporation by reference.

Subpart 105–60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

105–60.301 General.
105–60.302 Available materials.
105–60.303 Rules for public inspection and copying.
105–60.304 Deletion of identifying details.
105–60.305 Index.
105–60.306 Effect of failure to make informational materials available.
105–60.307 Fees.
105–60.307–1 Scope of section.
105–60.307–2 Record material available without charge.
105–60.307–3 Copy of GSA records available at a fee.
105–60.307–4 Exemptions from fee.
105–60.307–5 Searches.
105–60.307–6 Prepayment of fees over $25.
105–60.307–7 Form of payment.
105–60.307–8 Fee schedule.

Subpart 105–60.4—Described Records

105–60.401 General.
105–60.402 Procedures for making records available.
105–60.402–1 Submission of requests for described records.
105–60.402–2 Review of requests.
105–60.402–3 Approval of requests.
105–60.403 Denial of request for records.
105–60.404 Appeal within GSA.
105–60.405 Extension of time limits.
105–60.406 Exhaustion of administrative remedies.

Sec.

105–60.407 Judicial relief available to the public.
105–60.408 Disciplinary action against employees for "arbitrary or capricious" denial.
105–60.409 Contempt for noncompliance.

Subpart 105–60.5—Exemptions

105–60.501 General.
105–60.502 Categories of records exempt from disclosure under 5 U.S.C. 552.
105–60.503 Executive privilege exemption.

Subpart 105–60.6—Subpoenas or Other Legal Demands for Records and Authentication of Copies of Records

105–60.601 Service of subpoena or other legal demand.
105–60.601–1 GSA records.
105–60.601–2 Records transferred to the National Archives and Records Service.
105–60.602 Compliance with subpoena or other legal demand.
105–60.603 Authentication and attestation of copies.

Subpart 105–60.7—Annual Report

105–60.701 Time and requirements.

AUTHORITY: The provisions of this Part 105–60 are issued under section 205(c) of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 552 (Pub. L. 90–23, as amended by Pub. L. 93–502).

§ 105–60.000 Scope of part.

This part sets forth policies and procedures concerning the disclosure and availability to the public of records and information held by GSA with respect to: (a) Agency organization, functions, decisionmaking channels, and rules and regulations of general applicability, (b) agency final opinions and orders, including policy statements and staff manuals, (c) operational and other appropriate agency records, and (d) agency proceedings. The part also covers exemptions from disclosure of such materials, procedures for the guidance of the public in obtaining information and inspecting records, service or subpoena or other legal demand with respect to records and authentication and attestation of record copies.

Subpart 105–60.1—General Provisions

§ 105–60.101 Purpose.

This Part 105–60 implements the provisions of 5 U.S.C. 552 (Pub. L. 90–23, which codified Pub. L. 89–487, popularly known as the "Freedom of Information Act," which amended section 3 of the Administrative Procedure Act, formerly 5 U.S.C. 1002 (1964 ed.); and Pub. L. 93–502, popularly known as the "Freedom of Information Act Amendments of 1974"). This part prescribes procedures under which the public may obtain information and inspect records of GSA.

§ 105–60.102 Application.

This Part 105–60 applies to all records and informational materials generated, developed, or held by GSA which come within the purview of 5 U.S.C. 552, as amended.

§ 105–60.103 Definitions.

For purposes of this Part 105–60, the following terms have the meanings ascribed to them in this section.

(a) *Records.* The term "records" means all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics made or received by GSA in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of GSA or because of the informational value of data contained therein. The term does not include:

(1) Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents; or

(2) Objects or articles, such as structures, furniture, paintings, sculpture, models, vehicles, or equipment; or

(3) Donated historical materials (as defined in § 105–61.001.4) accepted by GSA from a source other than an agency of the United States Government in accordance with the provisions of 44 U.S.C. 2107.

(b) *Availability.* The term "availability" signifies the right of the public to obtain information, purchase materials, and inspect and copy records and other pertinent information.

(c) *Reasonably described.* The term "reasonably described," when applied to a requested record, means identifying it to the extent that it will permit the location of the particular document with a reasonable effort.

(d) *Requester.* The term "requester" means any party who submits a written request for records pursuant to this part.

(e) *Agency.* The term "agency," as defined in section 552(e) of title 5, United States Code, includes any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

§ 105–60.104 Policy.

§ 105–60.104–1 Availability of records.

GSA records are available to the greatest extent possible in keeping with the spirit and intent of the Freedom of Information Act and will be furnished promptly to any member of the public upon request addressed to the office designated in § 105–60.402–1 at such fees as are specified in § 105–60.307. The person making the request need not have a particular interest in the subject matter, nor must he provide justification for the request. The requirement of 5 U.S.C. 552 that records be available to the public refers only to records in being at the time the request for them is made. The Freedom of Information Act imposes no

obligation to compile a record in response to a request, although where it is not burdensome to do so, GSA will endeavor to compile such requested information.

§ 105–60.104–2 Exemptions.

Requests for GSA records may be denied if disclosure is exempted under the provisions of 5 U.S.C. 552, as outlined in Subpart 105–60.5 or precluded by executive privilege (see § 105–60.503). Except when a record is classified or when disclosure would violate any other Federal statute, the authority to withhold a record from disclosure is permissive rather than mandatory. The authority for nondisclosure will not be invoked unless there is a compelling reason to do so. In the absence of such compelling reason, records and other information will be disclosed although otherwise subject to exemption.

§ 105–60.105 Congressional information.

Nothing in this Part 105–60 authorizes withholding information from the Congress except when executive privilege is invoked by the President. (See § 105–60.503.)

§ 105–60.106 Records of other agencies.

(a) *Other agencies' records managed and administered by GSA.* The availability of records of other agencies located in the National Archives of the United States and Federal Records Centers are governed by Part 105–61 (Public Use of Records, Donated Historical Materials, and Facilities in the National Archives and Records Service).

(b) *Current records of other agencies.* If a request is submitted to GSA to make available current records which are the primary responsibility of another agency, GSA will refer the request to the agency concerned for appropriate action. GSA will advise the requester that the request has been forwarded to the responsible agency.

§ 105–60.107 Records involved in litigation or other judicial process.

Where there is reason to believe that any records requested may be involved in litigation or other judicial process in which the United States is a party, including discovery procedures pursuant to the Federal Rules of Civil Procedure or Federal Rules of Criminal Procedure, the request shall be referred to appropriate legal counsel for immediate coordination with the Department of Justice.

§ 105–60.108 Inconsistent issuances of GSA superseded.

Any policies and procedures in any GSA issuance which are inconsistent with the policies and procedures set forth in this Part 105–60 are superseded to the extent of that inconsistency.

Subpart 105–60.2—Publication of General Agency Information and Rules in the Federal Register

§ 105–60.201 Published information and rules.

In accordance with 5 U.S.C. 552(a)(1), there are separately stated and currently published, or from time to time will be published, in the Federal Register, for the guidance of the public, the following general information concerning GSA:

(a) Description of the organization of the Central Office and regional offices and the established places at which, the employees from whom, and the methods whereby the public may obtain information, make submittals or requests, or obtain decisions.

(b) Statements of the general course and method by which GSA functions are channeled and determined, including the nature and requirements of all formal and informal procedures available.

(c) Rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations.

(d) Substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by GSA.

(e) Each amendment, revision, or repeal of the materials described in this § 105–60.201.

§ 105–60.202 Published materials available for sale to the public.

Substantive rules of general applicability adopted by GSA as authorized by law which are published in the Federal Register and which are also available for sale to the public comprise the Federal Procurement Regulations, the General Services Administration Procurement Regulations, the Federal Property Management Regulations, regulations of the Office of Federal Management Policy, GSA, regulations of the Office of Preparedness, GSA, and the General Services Administration Property Management Regulations. These series of regulations are codified in titles 32, 32A, 34, and 41 of the Code of Federal Regulations and are also published in looseleaf volume form. The looseleaf version of the Federal Procurement Regulations is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, at prices established by that office. In addition, all of these regulations are available for sale by the Superintendent of Documents in (a) daily FEDERAL REGISTER form, and (b) in Code of Federal Regulations form, at prices established by that office.

§ 105–60.203 Effect of failure to publish.

5 U.S.C. 552(a)(1) provides that, except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the FEDERAL REGISTER and not so published. (See § 105–60.201.)

§ 105–60.204 Coordination of publication.

Coordination of GSA materials required to be published in the FEDERAL REGISTER in accordance with § 105–60.201 is accomplished by the Office of Administration, GSA.

§ 105–60.205 Incorporation by reference.

When deemed appropriate, matter covered by § 105–60.205 which is reasonably available to the class of persons affected thereby may be incorporated by reference in the FEDERAL REGISTER in accordance with standards prescribed from time to time by the Director of the FEDERAL REGISTER. (See 1 CFR Part 51; 37 FR 23614, November 4, 1972.)

Subpart 105–60.3—Availability of Opinions, Orders, Policies, Interpretations, Manuals, and Instructions

§ 105–60.301 General.

GSA makes available for public inspection and copying the materials described in 5 U.S.C. 552(a)(2), which are enumerated in § 105–60.302, and an index of those materials as described in § 105–60.305, at convenient locations and times. Central Office materials are situated in Washington, D.C.; some are also available at GSA regional offices. Each regional office has the materials of its region. All locations provide public reading rooms for the inspection and copying of documents. Reasonable copying services are furnished at fees specified in § 105–60.307.

§ 105–60.302 Available materials.

GSA materials which are available under this Subpart 105–60.3 are as follows:

(a) Final opinions, including concurring and dissenting opinions and orders, made in the adjudication of cases.

(b) Those statements of policy and interpretations which have been adopted by GSA and are not published in the FEDERAL REGISTER.

(c) Administrative staff manuals and instructions to staff that affect a member of the public; unless such materials are promptly published and copies offered for sale. (Any materials published and offered for sale will also be available in each reading room.)

§ 105–60.303 Rules for public inspection and copying.

(a) *Locations.* Reading rooms containing the materials available for public inspection and copying, described in § 105–60.302, are located in the following places:

CENTRAL OFFICE	
(GSA Headquarters), Washington, D.C., Telephone: 202-343-4203.	General Services Administration, 18th & F Sts. NW, Library (Room 1033), Washington, D.C. 20405.
REGION 1	
Boston, Massachusetts, (Comprising the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont). Telephone: 617-223-2868.	Business Service Center, General Services Administration, John W. McCormack Building, Post Office & Courthouse, Boston, Mass. 02109.
REGION 2	
New York, New York, (Comprising the States of New Jersey, New York, the Commonwealth of Puerto Rico and the Virgin Islands). Telephone: 212-264-1234.	Business Service Center, General Services Administration, 26 Federal Plaza, New York, N.Y. 10007.
REGION 3	
Washington, D.C. (Comprising the District of Columbia and the States of Maryland, Virginia, West Virginia, Pennsylvania and Delaware). Telephone: 202-963-4147.	Business Service Center, General Services Administration, Seventh and D Sts. SW., Washington, D.C. 20407.
REGION 4	
Atlanta, Georgia (Comprising the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee). Telephone: 404-526-5661.	Business Service Center, General Services Administration, 1776 Peachtree Street, NW., Atlanta, GA 30309.
REGION 5	
Chicago, Illinois (Comprising the States of Illinois, Indiana, Michigan, Ohio, Minnesota, and Wisconsin). Telephone: 312-353-5383.	Business Service Center, General Services Administration, 230 South Dearborn Street, Chicago, IL 60604.
REGION 6	
Kansas City, Missouri (Comprising the States of Iowa, Kansas, Missouri, and Nebraska). Telephone: 816-926-7203.	Business Service Center, General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131.
REGION 7	
Fort Worth, Texas (Comprising the States of Arkansas, Louisiana, New Mexico, Texas, and Oklahoma). Telephone: 817-334-3284.	Business Service Center, General Services Administration, 819 Taylor Street, Fort Worth, TX 76102.
REGION 8	
Denver, Colorado (Comprising the States of Colorado, North Dakota, South Dakota, Montana, Utah, and Wyoming). Telephone: 303-324-2216.	Business Service Center, General Services Administration, Building 41, Denver Federal Center, Denver, CO 80225.
REGION 9	
San Francisco, California (Comprising the States of Hawaii, California, Nevada, and Arizona). Telephone: 415-556-0877.	Business Service Center, General Services Administration, 525 Market Street, San Francisco, CA 94105.
REGION 10	
Seattle, Washington (Comprising the States of Alaska, Idaho, Oregon, and Washington). Telephone: 206-442-5556.	Business Service Center, General Services Administration, 440 Federal Building, 915 Second Avenue, Seattle, WA 98174.

(b) *Time.* The reading rooms will be open to the public during the established hours of business.

(c) *Copying.* GSA will furnish reasonable copying services at fees specified in § 105-60.307. The fees will be posted at each reading room. In suitable circumstances, a member of the public may receive authorization to copy materials himself, under such procedures as the authorizing official, i.e., the Director of Information in the Central Office or the Regional Director of Business Affairs in the Regional Offices, may determine.

(d) *Reading Room rules*—(1) *Age.* Permission to inspect materials will not be given to a person under 16 years of age unless accompanied by an adult who agrees to remain with the minor while the materials are in use.

(2) *Handling of materials.* The unlawful removal or mutilation of materials is forbidden by law and is punishable by fine or imprisonment or both. When requested by a reading room attendant, a person inspecting materials must present for examination any briefcase, notebook, package, envelope, book, or other article that could contain GSA informational materials.

(3) *Reproduction Services.* The GSA Central Office Library or the Regional Business Service Centers will furnish reasonable reproduction services of materials available.

§ 105-60.304 Deletion of identifying details.

To the extent required to prevent a clearly unwarranted invasion of personal privacy, GSA may delete identifying details when making available or publishing an opinion, statement of policy, interpretation, or staff manual or instruction. However, the justification for each deletion will be explained fully in writing, and will require the concurrence of appropriate legal counsel. A copy of the justification will be attached to the material containing the deletion and a copy also will be furnished to the appropriate Regional Director of Business Affairs and the Director of Information (ALI).

§ 105-60.305 Index.

GSA will maintain and make available for public inspection and copying current indexes arranged by subject matter providing identifying information for the public regarding any matter issued, adopted, or promulgated after July 4, 1967, and described in § 105-60.302. GSA will publish quarterly and make available copies of each index or supplements thereto. The index will be maintained for public inspection in each reading room.

§ 105-60.306 Effect of failure to make informational materials available.

Materials available pursuant to § 105-60.302 that effect a member of the public may be relied upon, used, or cited as precedent by GSA against any private party only if (a) they have been indexed and either made available or published as required by 5 U.S.C. 552(a)(2), or (b) the private party has actual and timely notice of their terms.

§ 105-60.307 Fees.

§ 105-60.307-1 Scope of section.

This section sets forth policies and procedures to be followed in the assessment and collection of fees from a requester for the search and reproduction of GSA records.

§ 105-60.307-2 Record material available without charge.

Each GSA reading room provides a rack displaying GSA records available to the public in that region. Normally, material related to bids (excluding construction plans and specifications) and any material displayed on the rack may be obtained without charge upon request.

§ 105-60.307-3 Copy of GSA records available at a fee.

One copy of GSA records not available free of charge will be provided at a fee as provided in § 105-60.307-8. A reasonable number of additional copies will be provided for the applicable fee where reproduction services are not readily obtainable from private commercial sources.

§ 105-60.307-4 Exemptions from fee.

When the Director of Information or Regional Director of Business Affairs handling the request for GSA records determines that at least one of the following conditions exists, he shall waive the fee requirement and provide one copy of the GSA records without charge to the requester:

(a) When the incremental cost of collecting the fee would be an unduly large part of or an amount greater than the fee;

(b) When the reproduction is for a foreign, state, or local Government or international agency and furnishing it without charge is an appropriate courtesy; or

(c) When furnishing the records without charge conforms to generally established business custom, such as furnish-

ing personal reference data to prospective employers of former employees.

§ 105–60.307–5 Searches.

(a) The time spent in the following activities may be computed in determining "search time" subject to applicable fees as provided in § 105–60.307–8:

(1) Time spent in trying to locate GSA records which come within the scope of the request;

(2) Time spent either in transporting a necessary agency searcher to a place of record storage or in transporting records to the location of a necessary agency searcher (GSA must document in writing the necessity of transporting either the searcher or the records); and

(3) Direct costs involving the use of computer time to locate and extract requested records.

(b) The time spent in the following activities may not be computed in determining search time subject to applicable fees as provided in § 105–60.307–8:

(1) Time spent in examining a requested record for the purpose of determining whether an exemption can and should be asserted;

(2) Time spent in deleting exempt matter being withheld from records to be made available;

(3) Time spent in monitoring a requester's inspection of agency records made available to him; and

(4) Time spent in operating reproduction facilities.

§ 105–60.307–6 Prepayment of fees over $25.

(a) When the Director of Information or Regional Director of Business Affairs handling a request for GSA records determines that the anticipated total fee (search and reproduction) is likely to exceed $25, he shall notify the requester that he must prepay the anticipated fee prior to GSA's making the records available. GSA will remit the excess paid by the requester or bill the requester for an additional amount according to variations between the final fee charged and the amount prepaid.

(b) When a GSA official notifies a requester of the necessity of prepayment as provided in paragraph (a) of this subsection, the official also shall notify the requester that the computation of the applicable time limits for GSA's response to an initial request for records or an appeal will be suspended from the mailing date of the notification until the receipt of the prepayment.

§ 105–60.307–7 Form of payment.

Payment shall be by check or money order payable to the General Services Administration and shall be addressed to the official designated by GSA in correspondence with the requester or to the Director of Information for requests directed to the central office or to the Regional Director of Business Affairs for regional requests.

§ 105–60.307–8 Fee schedule.

In computing applicable fees, GSA will consider only the following costs in providing the requested records.

(a) *Reproduction fees.* (1) The fee for reproducing copies of GSA records (by routine electrostatic copying) up to and including material 8½ x 14 inches shall be $0.10 per page.

(2) The fee for reproducing copies of GSA records over 8½ x 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

(b) *Search fees.* (1) The standard search fee shall be $4 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(2) When professional staff must be used to search for the requested records because clerical staff would be unable to locate them, the search fee shall be $8 per hour or fraction thereof beyond the initial half hour used to locate the requested records.

(3) When the search includes nonpersonnel expenditures to locate and extract requested records, such as computer time or transportation expenses, the applicable fee shall be the direct cost to GSA.

Subpart 105–60.4—Described Records

§ 105–60.401 General.

(a) Except for records made available pursuant to Subparts 105–60.2 and 105–60.3, GSA shall promptly make records available to a requester pursuant to a request which reasonably describes such records unless GSA invokes an exemption pursuant to § 104–60.104–2. Although the burden of reasonable description of the records rests with the requester, GSA will assist in identification to the extent practicable. Where requested records may be involved in litigation or other judicial proceedings in which the United States is a party, the procedures set forth under § 105–60.107 shall be followed.

(b) Upon receipt of a request which does not reasonably describe the records requested, GSA may contact the requester to seek a more specific description. The 10 day time limit set forth in § 105–60.402–2 will not start until a request reasonably describing the records is received in the office of the appropriate official identified in § 105–60.402–1.

§ 105–60.402 Procedures for making records available.

This section sets forth initial procedures for making records available when they are requested. These procedures do not apply to records of other agencies that have been transferred to the National Archives and Records Service in accordance with the Federal Records Act of 1950 (44 U.S.C. 2103 and 3103). The procedures on availability of these records are governed by Part 105–61.

§ 105–60.402–1 Submission of requests for described records.

(a) For records located in the GSA Central Office, requests shall be submitted in writing, to the Director of Information, General Services Administration, Washington, D.C. 20405. For records located in the GSA Regional Offices, requests shall be submitted to the Regional Director of Business Affairs for the relevant region, at the address listed in § 105–60.303(a). Requests should bear the legend, "FREEDOM OF INFORMATION REQUEST," prominently marked on both the face of the request letter and the envelope. The 10 day time limit for agency determinations set forth in 105–60.402–2 shall not start until a request is received in the office of the appropriate official identified in this paragraph. Misdirected requests shall be forwarded promptly to the appropriate official identified in this paragraph.

(b) The Director of Information shall respond to questions concerning the proper office to which Freedom of Information requests should be addressed.

§ 105–60.402–2 Review of requests.

(a) Upon receipt of a request for information, the Director of Information, for the Central Office, Washington, D.C., or the Regional Director for Business Affairs for a regional office, will forward the request to the GSA office which has custody of the record.

(b) Upon any request for records made pursuant to § 105–60.201, § 105–60.302, and § 105–60.401, the office having custody of the records shall determine within 10 days (excepting Saturdays, Sundays, and legal public holidays) after receipt of any such request in the office of the appropriate official identified in § 105–60.402–1 whether to comply with the request. If the request is approved, an official of the office having custody of the record shall promptly notify the requester.

§ 105–60.402–3 Approval of requests.

When a request is approved, records will be made available promptly in accordance with the terms of the request. Copies may be furnished or the records may be inspected at the reading rooms, as provided in § 105–60.303, or at such other places as the Director of Information or the Regional Director of Business Affairs shall prescribe.

§ 105–60.403 Denial of request for records.

(a) Each of the following officials within GSA, or any official acting for him, shall have the authority to make initial denials of requests for disclosure of records within his custody, and shall, in accordance with 5 U.S.C. 552(a)(6)(C), be the responsible official for denials of records made under this Part 105–60.

(1) Central Office:

The Administrator
The Deputy Administrator
The Assistant Administrator
The Associate Administrator, Office of Federal Management Policy
The Director of Civil Rights
The Chairman, GSA Board of Contract Appeals
The Director of Audits
The Special Assistant to the Administrator for Stockpile Disposal
The Special Assistant to the Administrator for Coordination of John F. Kennedy Library

Director Office of Preparedness
Assistant Administrator for Administration
General Counsel
Commissioner, Public Building Service
Commissioner, Federal Supply Service
Commissioner, ADTS
Archivist of the United States

(2) Region Offices:

Regional Administrator

(b) If a request is denied, the appropriate official listed in paragraph (a) shall advise the requester within 10 days (excepting Saturdays, Sundays, and legal public holidays) of receipt of the request by the official specified in § 105–60.402–1 and furnish written reasons for the denial. The denial will (1) describe briefly the record or records requested, (2) state the legal basis for nondisclosure pursuant to Subpart 105–60.5, (3) state the name and titles or positions of the official responsible for the denial of such request, and (4) state the requester's appeal rights.

(c) In the event GSA cannot locate requested records the appropriate official specified in (a) above will inform the requester (1) that the agency has determined at the present time to deny the request because the records have not yet been found or examined, but (2) that the agency will review the request within a specified number of days, when the search or examination is expected to be complete. The denial letter will state the name and title or position of the official responsible for the denial of such request. In such event, the requester may file an agency appeal immediately, pursuant to § 105–60.404.

(d) To assure uniformity of determinations on information requested, the Director of Information shall be furnished a copy of each denial letter and the corresponding request.

§ 105–60.404 Appeal within GSA.

(a) A requester denied access, in whole or in part, to GSA records may appeal that decision within GSA. All appeals should be addressed to the Director of Information, General Services Administration, Washington, DC 20405, regardless of whether the denial being appealed was made by a central office official or a regional administrator.

(b) An appeal must be received in the Office of the Director of Information no later than thirty calendar days after receipt by the requester of the initial denial of access in the case of a total denial, or thirty calendar days after receipt by the requester of records made available in the case of a partial denial.

(c) An appeal must be in writing and should contain a brief statement of the reasons why the records should be released, and enclose copies of the initial request and denial. The appeal letter should bear the legend, "FREEDOM OF INFORMATION APPEAL," conspicuously marked on both the face of the appeal letter and on the envelope. GSA has twenty days (excepting Saturdays, Sundays and legal public holidays) after the receipt of an appeal to make a determination with respect to such appeal. The twenty day time limit shall not begin to run until the appeal is received in the Office of the Director of Information. Misdirected appeals should be promptly forwarded to that office.

(d) Upon receipt of an appeal, the Director of Information will consult with the official who made the initial denial and other appropriate central office and regional officials to consider the appeal. If the Director of Information, in consultation with these officials, determines that the appeal should be granted, he or such other agency official, as is appropriate, shall so notify the requester, and make the records available to him in accordance with § 105–60.402–3.

(e) If the Director of Information, in consultation with appropriate GSA officials, recommends that the appeal should be denied, he then shall arrange with the Office of General Counsel for consultation with appropriate officials of the Department of Justice. After consulting with the Department of Justice, the Director of Information will submit the appeal file to the Deputy Administrator for final administrative determination.

(f) The Deputy Administrator shall be the deciding official on all appeals except in those cases in which the initial denial was made by the Administrator or the Deputy Administrator. If the Deputy Administrator made the initial denial, the Administrator shall be the deciding official on appeal. If the Administrator made the initial denial, there shall be no right of appeal within GSA. In the absence of the Deputy Administrator, the Administrator will be the deciding official on all appeals.

(g) If an appeal is filed in response to a tentative denial pending location and/or examination of records, as described in § 105–60.403(c), GSA will continue to search for and/or examine the requested records and will issue a response immediately upon completion of the search and/or examination. Such action in no way suspends the time for GSA's response to the requester's appeal which GSA will continue to process regardless of the response under this subsection.

(h) If a requester files suit pending an agency appeal, GSA nonetheless will continue to process the appeal, and will furnish a response within the twenty day time limit set out in paragraph (c) above.

(i) If, on appeal, the denial of the request for records is in whole or in part upheld, the Deputy Administrator will promptly furnish his ruling in writing to the requester within the twenty day time limit set out in paragraph (c), above. The notification letter shall contain: (1) A brief description of the record or records requested; (2) a statement of the legal basis for nondisclosure; (3) a statement of the name and title or position of the official or officials responsible for the denial of the initial request as described in § 105–60.403(a) and the denial of the appeal as described in paragraph (f) above; and (4) a statement of the requester's rights of judicial review.

§ 105–60.405 Extension of time limits.

In unusual circumstances as specified in this section, the time limits prescribed in § 105–60.402–2 and § 105–60.404(c) may be extended by the Director of Information. GSA will provide written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected. Such notice will specify no date that would result in an extension of more than ten work days. In unusual circumstances, the Director of Information may authorize more than one extension, divided between the initial request stage, described in § 105–60.404, but in no event will the combined periods of extension exceed ten work days. As used in this subsection, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(a) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request; or

(b) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(c) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

§ 105–60.406 Exhaustion of administrative remedies.

Any person making a request to GSA for records under § 105–60.201, § 105–60.302, or § 105–60.401 shall be deemed to have exhausted his administrative remedies with respect to the request if the agency fails to comply with the applicable time limit provisions set forth in §§ 105–60.402–2 and 105–60.404.

§ 105–60.407 Judicial relief available to the public.

(a) Upon denial of a requester's appeal by the Deputy Administrator, the requester may file a complaint in a district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, pursuant to 5 U.S.C. 552(a)(4)(B).

(b) The Administrator of GSA will be the named defendant in any action filed under this Part 105–60.

§ 105–60.408 Disciplinary action against employees for "arbitrary or capricious" denial.

Pursuant to 5 U.S.C. 552(a)(4)(F), whenever the district court, described in § 105–60.407, orders the production of any GSA records improperly withheld from the complainant and assesses against the United States reasonable

attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether GSA personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission is required to initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who primarily was responsible for the withholding. The Civil Service Commission, after investigation and consideration of the evidence submitted, submits its findings and recommendations to the Administrator of General Services and sends copies of the findings and recommendations to the officer or employee or his representative. The law requires the Administrator to take any corrective action which the Civil Service Commission recommends.

§ 105–60.409 Contempt for noncompliance.

In the event of noncompliance by GSA with an order of a district court pursuant to § 105–60.407, the district court may punish for contempt the GSA employee responsible for the noncompliance, pursuant to 5 U.S.C. 552(a)(4)(G).

Subpart 105–60.5—Exemptions

§ 105–60.501 General.

The exemptions enumerated in 5 U.S.C. 552(b), under which the provisions for availability of records and informational materials will not apply, are general in nature. GSA will decide each case on its merits in accordance with the GSA policy expressed in § 105–60.104.

§ 105–60.502 Categories of records exempt from disclosure under 5 U.S.C. 552.

5 U.S.C. 552(b) provides that the requirements of the statute do not apply to matters that are:

(a) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such Executive Order.

(b) Related solely to the internal personnel rules and practices of an agency.

(c) Specifically exempted from disclosure by statute.

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(e) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(g) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel.

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

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

Any reasonably segregable portion of a record shall be provided to any person requesting the record after deletion of the portions which are exempt under this section.

§ 105–60.503 Executive privilege exemption.

Where application of the executive privilege exemption is desired, the matter shall be forwarded to the Administrator for consideration. If the request for information is Congressional, only the President may invoke the exemption. Presidential approval is not necessarily required if the request for information is in connection with judicial or adjudicatory proceedings or otherwise. In connection with judicial proceedings, the response shall be coordinated with the Department of Justice.

Subpart 105–60.6—Subpoenas or Other Legal Demands for Records and Authentication of Copies of Records

§ 105–60.601 Service of subpoena or other legal demand.

§ 105–60.601–1 GSA records.

(a) A subpoena duces tecum or other legal demand for the production of records held by GSA should be addressed to the appropriate Regional Director of Business Affairs or Regional Administrator with respect to regional records; to the Director of Information, General Services Administration, Washington, DC 20405, with respect to Central Office records; or to the Administrator of General Services.

(b) The General Counsel, Deputy General Counsels, Assistant General Counsels, and, with respect to records in a GSA regional office, the Regional Counsel are authorized to accept services of a subpoena duces tecum or other legal demand on behalf of the officials designated in paragraph (a) of this section.

(c) When such a subpoena or demand is served on any officer or employee of GSA other than as provided in paragraphs (a) and (b) of this section, unless otherwise directed by the Administrator, he shall decline respectfully to produce such records on the ground that he is without authority under this Subpart 105–60.6 to do so.

§ 105–60.601–2 Records transferred to the National Archives and Records Service.

(a) Access to records transferred to a Federal Records Center (§ 105–61.001–3) is controlled by the instructions and restrictions imposed on GSA by the Federal agency which transferred the records to the Federal Records Center. Accordingly, a subpoena duces tecum or other legal demand for the production of these records will be honored by GSA if no restrictions have been imposed by the transferring agency. On the other hand, where restrictions have been imposed by the transferring Federal agency, the authority issuing the subpoena or other legal demand will be notified of that fact and be requested to take up the matter further with the transferring agency since GSA must decline to release the records. The subpoena or other legal demand for these records may be served only on the Administrator of General Services, the Archivist of the United States, the General Counsel, a Regional Administrator or a Regional Counsel, as appropriate, or the manager of the Federal Records Center in which the records are stored. Any such demands will be reported to the agency whose records are involved.

(b) A subpoena duces tecum or other legal demand for the production of records designated as "archives" or "donated historical materials" administered by the National Archives and Records Service (§§ 105–61.001–2 and 105–61.001–4) may be served only on the Administrator of General Services, the Archivist of the United States, the General Counsel, or the appropriate Assistant Archivist or, as appropriate, on a Regional Administrator, a Regional Counsel, a manager of a Federal Records Center, or a Director of a Presidential Library.

(c) When such a subpoena or demand is served on any officer or employee of GSA other than as provided in paragraphs (a) and (b) of this § 105–60.601–2, he shall, unless otherwise directed by the Administrator, respectfully decline to produce such records on the ground that he is without authority under this Subpart 105–60.6 to do so.

§ 105–60.602 Compliance with subpoena or other legal demand.

(a) Officials served with subpoenas will comply with the subpoena or demand insofar as it is practicable by submitting authenticated copies of the records. Original records should be provided only if necessary.

(b) The served official or the Administrator of General Services may determine that such demanded records will be denied. In the event of a determination to deny, the served official should seek the assistance of legal counsel.

§ 105–60.603 Authentication and attestation of copies.

The Head of the Service or Staff Office having the records, the General

Counsel, Deputy General Counsels, and Assistant General Counsels, or if the records are in a GSA regional office, the Regional Administrator, the Head of the Regional Service or Staff Office concerned, and the Regional Counsel, are authorized to authenticate and attest, for and in the name of the Administrator of General Services, copies of reproductions of the records. Appropriate fees will be charged for such copies or reproductions. (See § 105–60.307.) With respect to records transferred to the National Archives and Records Service, authentication and attestation and fee procedures set forth in Subpart 105–61.52 will be followed.

Subpart 105–60.7—Annual Report

§ 105–60.701 Time and requirements.

On or before March 1 of each calendar year, GSA shall submit to the Speaker of the House of Representatives and President of the Senate, for referral to the appropriate committees of the Congress a report on GSA's implementation of 5 U.S.C. 552 which covers the preceding calendar year. Procedures for preparation of this Freedom of Information Annual Report are in GSA Order ADM 1035.

Effective date: This regulation is effective February 19, 1975.

ARTHUR F. SAMPSON,
Administrator of General Services.

FEBRUARY 21, 1975.

[FR Doc.75–5319 Filed 2–25–75;10:07 am]

proposed rules

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

CANNED DRIED BEANS (OTHER THAN PORK AND BEANS)

Proposed Grade Standards

Notice is given that the United States Department of Agriculture is considering a revision of the United States Standards for Grades of Canned Dried Beans (7 CFR, 52.411–52.424). These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover the cost of such services.

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

All persons who desire to submit written views, data, or arguments for consideration in connection with the proposed revision should file the same in duplicate, not later than April 15, 1975 with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made under this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR, 1.27(b)).

Statement of consideration leading to the proposed revision of the standards.

The Department, on its own initiative, proposes to revise the U.S. Standards for Grades of Canned Dried Beans.

The U.S. Standards for Grades of Canned Dried Beans were first published to become effective January 10, 1934. Since 1934, the standards were revised only once—October 24, 1947. Since 1947, no major changes have been made in the standards.

The major portion of canned dried beans packed today, consists largely of canned pork and beans—which are popular among consumers. The current U.S. Standards for Grades of Canned Dried Beans include many types and styles other than pork and beans; thus, the standards do not adequately cover the attributes of canned pork and beans.

During an informal survey, conducted early in 1974, the Department received comments from two large processors of canned dried beans, indicating that a revision of the U.S. standards is desirable at this time.

Proposed changes are as follows:

(1) Remove canned pork and beans from the U.S. Standards for Grades of Canned Dried Beans. Canned pork and beans shall be considered under a separate proposal.

(2) Rewords the product description to provide for the addition of "safe and suitable" optional ingredients.

(3) Broadens the classifications of types and styles of canned dried beans, to include, pinto beans, pink beans, black beans, yelloweye beans, and garbanzos; and beans packed in highly seasoned sauces.

(4) Introduces a washed drained weight procedure and a recommended minimum washed drained weight that may be used to establish the amount of dried beans that should be present in a given container.

(5) Provides new criteria for the factors of similar varietal characteristics, consistency, flavor, color, and defects.

At the present time, the U.S. Standards for Grades of Canned Dried Beans are the only Federal standards that have been promulgated specifically for this product. In the absence of other Federal standards, the Department concludes that this proposal to revise the U.S. standards would provide useful criteria for the voluntary use of both producers and consumers. The proposed revision is as follows:

Sec.

52.411 Product description.
52.412 Types.
52.413 Styles.
52.414 Grades.
52.415 Recommended fill of container.
52.416 Recommended minimum washed drained weight.
52.417 Sample unit size.
52.418 Determining the grade.
52.419 Determining the rating of the factors which are scored.
52.420 Color.
52.421 Absence of defects.
52.422 Character.
52.423 Determining the grade of a lot.
52.424 Score sheet for canned dried beans.

AUTHORITY: Agricultural Marketing Act of 1946, Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

§ 52.411 Product description.

Canned dried beans is the product prepared from dry mature beans or peas used for canning; but not including soybeans (Soja Max) and sweet peas or early peas (Pisum sativum); and with a packing medium or sauce consisting of water and any other safe and suitable ingredients permissible under the provisions of the Federal Food, Drug, and Cosmetic Act. Pork or pork fat may be used as an optional ingredient. The product is prepared by washing, soaking, blanching, cooking, baking, or other processing. It is packed in hermetically sealed containers and sufficiently processed by heat to assure preservation.

§ 52.412 Types.

(a) White beans.
(b) Lima beans.
(c) Red beans.
(d) Pinto beans.
(e) Pink beans.
(f) Garbanzos or chick-peas.
(g) Black beans.
(h) Yelloweye beans.
(i) Black-eye peas or field peas.
(j) Beans of other colors or types (except soybeans, sweet peas, and early peas).

§ 52.413 Styles.

(a) "In tomato sauce" means packed in tomato pulp or a similar tomato product; with or without any other safe and suitable ingredients. The sauce may be highly seasoned.

(b) "In sweetened sauce" means packed with nutritive carbohydrate sweetening ingredients; with or without any other safe and suitable ingredients. The sauce may be highly seasoned.

(c) "In sweetened brine" means packed in water, with salt and nutritive carbohydrate sweetening ingredients; with or without any other safe and suitable ingredients.

(d) "In brine" means packed in water, with salt; with or without any other safe and suitable ingredients.

§ 52.414 Grades.

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of canned dried beans that have the following attributes:

(1) Practically similar varietal characteristics;

(2) At least a reasonably good consistency for the styles of "In tomato sauce" and "In sweetened sauce";

(3) Practically free from defects;

(4) Good character;

(5) Good flavor;

(6) Score at least 17 points for color; and

(7) Total not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" (or "U.S. Extra Standard") is the quality of canned dried beans that have at least the following attributes:

(1) Reasonably similar varietal characteristics;

(2) Reasonably good consistency for the styles of "In tomato sauce" and "In sweetened sauce";

(3) Reasonably free from defects;

(4) Reasonably good character;

(5) Reasonably good flavor;

(6) Reasonably good color; and

(7) Total not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of canned dried beans that fail to meet the requirements of U.S. Grade B.

§ 52.415 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of canned dried beans be filled as full as practicable without impairment of quality and that the beans and packing medium shall occupy not less than 90 percent of the total capacity of the container. Total capacity of the container means the maximum weight of distilled water at 20 degrees C. (68 degrees Fahrenheit) which the scaled container will hold.

§ 52.416 Recommended minimum washed drained weight.

(a) *General.* The minimum washed drained weight recommendations of this section are not incorporated in the grades of the finished product, since washed drained weight, as such, is not a factor of quality for the purposes of these grades. It is recommended that the ratio of net weight to washed drained weight be not more than 1.65:1 (sample average).

(b) *Procedure.* The washed drained weight of canned dried beans is determined by emptying the contents of the container upon a United States Standard No. 8 circular sieve of proper diameter containing eight meshes to the inch (square openings 0.0937 inch (2.3 mm), ±3 percent) so as to distribute the product evenly, rinsing any remaining product from the container and adding same to the sieve. Immerse the sieve and the contents in water at 20 degrees C. (68 degrees Fahrenheit) ±10 percent. Agitate the sieve with a vigorous swirling motion for a period of 1 minute, breaking up clumps to free any sauce adhering to the beans. Withdraw the sieve and contents from the water and immerse momentarily twice in succession. Incline the sieve to an angle of approximately 17–20° to facilitate drainage, and allow to drain for 2 minutes. The washed drained weight is the weight of the sieve, beans and optional ingredient(s) such as pork or pork fat, less the weight of the wet sieve. A sieve 8 inches in diameter is used for the No. 2 size can (307 x 409) and smaller sizes, and a sieve 12 inches in diameter is used for containers larger than No. 2 size can.

(c) *Determination.* The net weight to washed drained weight ratio is determined as follows:

$$\frac{\text{Net Weight of Contents}}{\text{Washed Drained Weight of Product}} = \text{Net Weight to washed drained weight ratio}$$

§ 52.417 Sample unit size.

Compliance with requirements for factors of quality is based on a sample unit consisting of the entire contents of one container, irrespective of container size.

§ 52.418 Determining the grade.

(a) *General.* The grade of canned dried beans is determined by considering, in addition to the requirements of the respective grade, the following factors:

(b) *Factors not rated by score points.*

(1) Similar varietal characteristics;

(2) Consistency; and

(3) Flavor and odor.

(c) Factors rated by score points. The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given for each factor is:

Factors:	Points
Color	20
Absence of defects	40
Character	40
Total score	100

(d) *Definitions.*—(1) Similar varietal characteristics.

(i) "Contrasting varieties" means dried beans of the same type or of other types that are of a noticeably different color, size, or shape from the dried beans of the predominating variety (such as red beans in white beans).

(ii) "Varieties that blend" means dried beans of the same type or of other types that are similar in color, size, or shape to the dried beans of the predominating variety (such as pea beans with small white beans).

(iii) "Practically similar varietal characteristics" means that the beans are practically alike in size, shape, color, general characteristics, and that there may be present not more than 0.5 percent, by weight, of varieties that blend.

(iv) "Reasonably similar varietal characteristics" means that the beans are reasonably alike in size, shape, color, general characteristics, and that there may be present not more than 1 percent, by weight, of contrasting varieties; and not more than 5 percent, by weight, of varieties that blend.

(2) Consistency. The factor of consistency is not a requirement for the styles of "In sweetened brine" or "In brine".

(i) "Reasonably good consistency" means that, the sauce is reasonably smooth and may be slightly grainy or slightly lumpy; the product may have a thick consistency but is not compacted in the bottom of the container and when emptied on a flat surface has practically no separation of liquid; or, the product may have a thin consistency with separation of liquid but it shall not be watery.

(3) "Good flavor" means that the product has a good, normal flavor and odor, characteristic of the style of pack, and is free from objectionable flavors and objectionable odors of any kind.

(4) "Reasonably good flavor" means that the product may be lacking in good flavor and odor, but is characteristic of the style of pack, and is free from objectionable flavors and objectionable odors of any kind.

§ 52.419 Determining the rating of the factors which are scored.

The essential variations within each factor which are scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.420 Color.

(a) *(A) classification.* Canned dried beans that have a good color may be given a score of 18 to 20 points. "Good color" means that the beans have a color that is bright and reasonably uniform, typical of the type of canned dried beans; and that the surrounding sauce or brine has a color typical of the style of pack.

(b) *(B) classification.* Canned dried beans that have a reasonably good color may be given a score of 16 or 17 points. Canned dried beans that score 16 points for color shall not be graded above "U.S. Grade B" (or "U.S. Extra Standard"), regardless of the total score for the product (this is a partial limiting rule). "Reasonably good color" means that the beans have a color that is fairly uniform, typical of the type of canned dried beans; may be dull but not off color; and that the surrounding sauce or brine has a color typical of the style of pack.

(c) *(SStd.) classification.* Canned dried beans that fail to meet the requirements of Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.421 Absence of defects.

(a) *General.* The factor of absence of defects refers to the degree of freedom from extraneous vegetable material, loose skins, broken and mashed units, and blemished and seriously blemished units.

(b) *Definitions.*—(1) A "unit" means two cotyledons and a skin, or portions thereof, whether or not attached or combined as a whole bean. A single skin or pieces of loose skin aggregating the equivalent of a whole skin will be considered as one-third of a unit. A cotyledon or portions of cotyledons aggregating the equivalent of a cotyledon will be considered as one-third of a unit.

(2) "Loose skin" means a skin or portions of a skin which have become separated wholly from the cotyledons.

(3) "Broken unit" means a cotyledon or portions of a cotyledon which have become separated from a unit.

(4) "Mashed unit" means a unit that is crushed or flattened to the extent that its appearance is seriously affected.

(5) "Blemished unit" means a bean that is spotted or discolored or otherwise

blemished to such an extent that its appearance or edibility is materially affected. Beans that have a characteristic darkening around the hilum are not considered blemished units.

(6) "Seriously blemished unit" means a beam affected by discoloration, insect or similar type injury, or otherwise defective to such an extent that its appearance or edibility is seriously affected.

(7) "Extraneous vegetable material" means vegetable material common to the bean plant or plants that is harmless upon eating and includes but is not limited to, peas (Pisum sativum), lentils (Lens culinaris), cereal grains, and corn.

(c) *(A) classification.* Canned dried beans that are practically free from defects may be given a score of 36 to 40 points. "Practically free from defects" means that the canned dried beans comply with the requirements in Table I.

(d) *(B) classification.* Canned dried beans that are reasonably free from defects may be given a score of 32 to 35 points. Canned dried beans that fall into this classification shall not be graded above "U.S. Grade B" (or "U.S. Extra Standard"), regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that the canned dried beans comply with the requirements in Table II.

(e) *(SStd) classification.* Canned dried beans that fail to meet requirements of Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE I.—*Allowances for defects in canned dried beans*
(A) Classification

Defect	Maximum amount of defects permitted in a sample unit—by weight	Maximum amount of defects permitted in a sample
Loose skin, broken, and mashed.	4 percent	
Blemished and seriously blemished.	3 percent	
Seriously blemished	2 percent	
Extraneous vegetable material.	No limit	1 piece per 80 ozs. net weight.

TABLE II.—*Allowances for defects in canned dried beans*
(B) Classification

Defect	Maximum amount of defects permitted in a sample unit—by weight	Maximum amount of defects permitted in a sample
Loose skin, broken, and mashed.	8 percent	
Blemished and seriously blemished.	6 percent	
Seriously blemished	4 percent	
Extraneous vegetable material.	No limit	1 piece per 30 ozs. net weight.

§ 52.422 Character.

(a) *General.* The factor of character refers to the degree of freedom from hard units, mushy units, units with tough skins; and the overall texture of the product.

(b) *(A) classification.* Canned dried beans that have a good character may be given a score of 36 to 40 points. "Good character means that the beans have a good, typical texture, that may be slightly soft or slightly firm; and that the skins are tender.

(c) *(B) classification.* Canned dried beans that have a reasonably good character may be given a score of 32 to 35 points. Canned dried beans that fall into this classification shall not be graded above "U.S. Grade B" (or "U.S. Extra Standard"), regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that the beans have a reasonably good, typical texture, that the beans may be firm or soft but not hard or mushy; and that the skins may be slightly tough.

(d) *(SStd) classification.* Canned dried beans that fail to meet the requirements of Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.423 Determining the grade of a lot.

The grade of a lot of canned dried beans covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.83).

§ 52.424 Score sheet for Canned Dried Beans.

Container size			
Container code or identification			
Label			
Net weight (in ounces)			
Vacuum (in inches)			
Type			
Style of pack			

Factors		Score points	
Color	20	(A)	18-20
		(B)	[1] 16-17
		(SStd)	[2] 0-15
Absence of defects	40	(A)	36-40
		(B)	[2] 32-35
		(SStd)	[2] 0-31
Character	40	(A)	36-40
		(B)	[2] 32-35
		(SStd)	[2] 0-31
Total score	100		

Consistency	Reasonably good; substandard.[3]
Flavor	Good; Reasonably good.
Similar varietal characteristics.	Practically; reasonably.
Grade	

[1] Indicates partial limiting rule.
[2] Indicates limiting rule.
[3] Not applicable for the styles of "In sweetened brine" and "In brine".

Dated: February 20, 1975.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.75-5076 Filed 2-25-75;8:45 am]

[7 CFR Part 52]

CANNED PORK AND BEANS

Proposed Grade Standards

Notice is given that the United States Department of Agriculture is considering a proposal to establish United States Standards for Grades of Canned Pork and Beans (7 CFR, 52.6441–52.6452). These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request and upon payment of a fee to cover the cost of such services.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

All persons who desire to submit written views, data, arguments for consideration in connection with the proposed U.S. standards should file the same in duplicate, not later than April 15, 1975 with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made under this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR, 1.27(b)).

Statement of consideration leading to the proposed standards. The Department, on its own initiative, proposes to establish U.S. Standards for Grades of Canned Pork and Beans.

Canned pork and beans (and other canned dried beans) are currently graded under the U.S. Standards for Grades of Canned Dried Beans which were published in the FEDERAL REGISTER to become effective October 24, 1947. Canned pork and beans—which are popular among consumers—comprise a major portion of the canned dried bean pack today. The current U.S. Standards for Grades of Canned Dried Beans include many different types and styles of the product; thus, the characteristics of canned pork and beans are not evaluated equitably.

Recently, the Department received comments from two large processors of canned pork and beans, indicating that U.S. Standards for Grades of Canned Pork and Beans are desirable at this time.

This proposal contains the following provisions:

1) Introduces separate U.S. Standards for Grades of Canned Pork and Beans.

2) Permits the addition of "safe and suitable" optional ingredients.

3) Establishes the bean to sauce ratio, absence of defects, and character as market quality levels of the product which are rated by score points; color, flavor, odor, and similar varietal characteristics are prerequisites (non-scoring factors).

4) Offers the bean to sauce ratio as an objective guide to determine the quantity of bean ingredient present in a given container.

At the present time, the U.S. Standards for Grades of Canned Dried Beans are the only Federal standards that have been promulgated for canned pork and beans. In the absence of other Federal standards, the Department concludes that this proposal to establish U.S. Standards for Grades of Canned Pork and Beans (separate from canned dried beans) would provide useful criteria for the voluntary use of both producers and consumers.

The proposed standards are as follows:

Sec.
52.6441 Product description.
52.6442 Types.
52.6443 Grades.
52.6444 Recommended fill of container.
52.6445 Sample unit size.
52.6446 Determining the grade.
52.6447 Determining the rating for the factors which are scored.
52.6448 Bean to sauce ratio.
52.6449 Absence of defects.
52.6450 Character.
52.6451 Determining the grade of a lot.
52.6452 Score sheet for canned pork and beans.

AUTHORITY: Agricultural Marketing Act of 1946, Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624.

§ 52.6441 Product description.

Canned pork and beans (canned dried white beans with pork) is the product prepared from dry mature white beans of the species Phaseolus vulgaris L., with pork or pork fat; and with a packing medium or sauce consisting of water, tomato products, and any other safe and suitable ingredients permissible under the provisions of the Federal Food, Drug, and Cosmetic Act. The product is prepared by washing, soaking, blanching, or other processing. It is packed in hermetically sealed containers and sufficiently processed by heat to assure preservation.

§ 52.6442 Types.

(a) Pea beans (The type as grown in the Great Lakes region known also as Navy beans).

(b) Small white beans (The type as grown in the Pacific coast region, not including Tepary beans).

(c) Flat small white beans (The type as grown in northern Idaho).

(d) Great northern beans.

(e) Other types of white beans (except white lima beans).

§ 52.6443 Grades.

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of canned pork and beans that have the following provisions:

(1) Practically similar varietal characteristics;

(2) At least a reasonably good bean to sauce ratio;

(3) Practically free from defects;

(4) Good character;

(5) Good flavor;

(6) Good color; and

(7) Total not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" (or "U.S. Extra Standard") is the quality of canned pork and beans that have at least the following attributes:

(1) Reasonably similar varietal characteristics;

(2) Reasonably good bean to sauce ratio;

(3) Reasonably free from defects;

(4) Reasonably good character;

(5) Good flavor;

(6) Reasonably good color; and

(7) Total not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of canned pork and beans that fail to meet the requirements of U.S. Grade B.

§ 52.6444 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that each container of canned pork and beans be filled as full as practicable without impairment of quality and that the beans and sauce shall occupy not less than 90 percent of the total capacity of the container. Total capacity of the container means the maximum weight of distilled water at 20 degrees C. (68 degrees Fahrenheit) which the sealed container will hold.

§ 52.6445 Sample unit size.

Compliance with requirements for factors of quality is based on a sample unit consisting of the entire contents of one container, irrespective of container size.

§ 52.6446 Determining the grade.

(a) *General.* The grades of canned pork and beans may be determined by considering, in addition to the requirements of the respective grade, the following factors:

(b) *Factors not rated by score points.*

(1) Similar varietal characteristics;

(2) Color; and

(3) Flavor and odor.

(c) *Factors rated by score points.* The relative importance of each factor is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors:	Points
Bean to sauce ratio	20
Absence of defects	40
Character	40
Total score	100

(d) *Definitions.*—(1) Similar varietal characteristics.

(i) "Contrasting varieties" means varieties of dried beans other than those specified in § 52.6442 (such as red beans).

(ii) "Varieties that blend" means one or more of the varieties of dried beans specified in § 52.6442 other than the predominating variety of white beans (such as pea beans with small white beans).

(iii) "Practically similar varietal characteristics" means that the beans are practically alike in size, shape, color, general characteristics, and that there may be present not more than 0.5 percent, by weight, of contrasting varieties; and not more than 5 percent, by weight, of varieties that blend.

(iv) "Reasonably similar varietal characteristics" means that the beans are reasonably alike in size, shape, color, general characteristics, and there may be present not more than 1 percent, by weight, of contrasting varieties; and not more than 5 percent, by weight, of varieties that blend.

(2) "Good color" means that the beans have a color that is bright and reasonably uniform; and that the surrounding sauce is reasonably bright and has the distinguishing color characteristics of the addition of tomato products.

(3) "Reasonably good color" means that the beans have a color that is fairly uniform, that may be slightly dull but not off color; and that the surrounding sauce may be dull but not off color and may be lacking in the distinguishing color characteristics of the addition of tomato products.

(4) "Good flavor" means that the product has a good, normal flavor and odor, and is free from objectionable flavors and objectionable odors of any kind; and that the flavor of the sauce is distinct and characteristic of the ingredients.

(5) "Reasonably good flavor" means that the product may be lacking in good flavor and odor, but is free from objectionable flavors and objectionable odors of any kind; and that the flavor of the sauce may be weak.

§ 52.6447 Determining the rating of the factors which are scored.

The essential variations within each factor which are scored are so described that the value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 52.6448 Bean to sauce ratio.

(a) *General.* The bean to sauce ratio requirements of this section are based upon the weight of the bean and pork or pork fat ingredients, exclusive of any surrounding sauce, and is determined on the finished product by using the washed drained weight procedure specified in this section.

(b) *Procedure.* The washed drained weight of canned pork and beans is determined by emptying the contents of the container upon a United States Standard No. 8 circular sieve of proper diameter containing eight meshes to the inch (square openings 0.0937 inch (2.3 mm), ±3 percent) so as to distribute the product evenly, rinsing any remaining product from the container and adding same to the sieve. Immerse the sieve and the contents in water at 20 degrees C. (68 degrees Farenheit) ±10 percent. Agitate the sieve with a vigorous swirling motion for a period of 1 minute, breaking up clumps to free any sauce adhering to the beans. Withdraw the

sieve and contents from the water and immerse momentarily twice in succession. Incline the sieve to an angle of approximately 17–20° to facilitate drainage, and allow to drain for 2 minutes. The washed drained weight is the weight of the sieve and beans and pork, less the weight of the wet sieve. A sieve 8 inches in diameter is used for the No. 2 size can (307 x 409) and smaller sizes, and a sieve 12 inches in diameter is used for containers larger than the No. 2 size can.

(c) *Determination.* The bean to sauce ratio is determined as follows:

$$\text{Weight of Sauce} = \text{Net Weight of Contents} - \text{Washed Drained Weight of Beans}$$

$$\text{Bean to Sauce Ratio} = \frac{\text{Washed Drained Weight of Beans}}{\text{Weight of Sauce}}$$

(d) *(A) classification.* Canned pork and beans that have a good bean to sauce ratio may be given a score of 18 to 20 points. "Good bean to sauce ratio" means that the bean to sauce ratio of the finished product meets the requirements of Table I.

(e) *(B) classification.* Canned pork and beans that have a reasonably good bean to sauce ratio may be given a score of 16 to 17 points. "Reasonably good bean to sauce ratio" means that the bean sauce ratio of the finished product meets the requirements of Table I.

(f) *(SStd) classification.* Canned pork and beans that fail to meet the requirements of Grade B may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

TABLE I.—*Bean to sauce ratio in canned pork and beans*

Sample unit		Sample average	
	(A) Classification		
Minimum	1.45:1	Minimum	1.55:1
Maximum	1.75:1	Maximum	1.65:1
	(B) Classification		
Minimum	No limit	Minimum	1.40:1
Maximum	do.	Maximum	1.80:1

§ 52.6449 Absence of defects.

(a) *General.* The factor of absence of defects refers to the degree of freedom from extraneous vegetable material, loose skins, broken and mashed units, and blemished and seriously blemished units.

(b) *Definitions.* (1) A "unit" means two cotyledons and a skin, or portions thereof, whether or not attached or combined as a whole bean. A single whole skin or pieces of loose skin aggregating the equivalent of a whole skin will be considered as one-third of a unit. A cotyledon or portions of cotyledons aggregating the equivalent of a cotyledon will be considered as one-third of a unit.

(2) "Loose skin" means a skin or portions of a skin which have become separated wholly from the cotyledons.

(3) "Broken unit" means a cotyledon or portions of a cotyledon which have become separated from a unit.

(4) "Mashed unit" means a bean that is crushed or flattened to the extent that its appearance is seriously affected.

(5) "Blemished unit" means a bean that is spotted or discolored or otherwise defective to such an extent that its appearance or edibility is materially affected. Beans that have a characteristic darkening around the hilum are not considered blemished units.

(6) "Seriously blemished unit" means a bean affected by discoloration, insect or similar type injury, or otherwise defective to such an extent that its appearance or edibility is seriously affected.

(7) "Extraneous vegetable material" means vegetable material common to the bean plant or other plants that is harmless upon eating and includes but is not limited to, peas (Pisum sativum), lentils (Lens culinaris), field peas (Vigna sinensis), corn and cereal grains.

(c) *(A) classification.* Canned pork and beans that are practically free from defects may be given a score of 36 to 40 points. "Practically free from defects" means that canned pork and beans comply with the requirements in Table II.

(d) *(B) classification.* Canned pork and beans that are reasonably free from defects may be given a score of 32 to 35 points. Canned pork and beans that fall into this classification shall not be graded above "U.S. Grade B" (or "U.S. Extra Standard"), regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that the canned pork and beans comply with the requirements in Table III.

(e) *(SStd) classification.* Canned pork and beans that fail to meet the requirements of Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.6450 Character.

(a) *General.* The factor of character refers to the degree of freedom from hard units, mushy units, units with tough skins, and from granulation; and to the overall palatability and texture of the beans and sauce.

(b) *(A) classification.* Canned pork and beans that have a good character may be given a score of 36 to 40 points. "Good character" means that the beans have a good, typical texture, that may be slightly granular or slightly firm; that the skins are tender; and that the sauce is smooth and is neither grainy nor lumpy.

(c) *(B) classification.* Canned pork and beans that have a reasonably good character may be given a score of 32 to 35 points. Canned pork and beans that fall into this classification shall not be graded above "U.S. Grade B" (or "U.S. Extra Standard"), regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that the beans have a reasonably good, typical texture, that the beans may be firm or soft but not hard or mushy; that the skins may be slightly tough; that the beans may be granular; and that the sauce is reasonably smooth and may be slightly grainy, or slightly lumpy.

TABLE II.—*Allowances for defects in canned pork and beans*

(A) Classification

Defect	Maximum amount of defects permitted in a sample unit—by weight	Maximum amount of defects permitted in a sample
Loose skin, broken, and mashed.	4 percent	
Blemished and seriously blemished.	3 percent	
Seriously blemished	2 percent	
Extraneous vegetable material.	No limit	1 piece per 20 ozs. net weight.

TABLE III.—*Allowances for defects in canned pork and beans*

(B) Classification

Defect	Maximum amount of defects permitted in a sample unit—by weight	Maximum amount of defects permitted in a sample
Loose skin, broken, and mashed.	8 percent	
Blemished and seriously blemished.	6 percent	
Seriously blemished	4 percent	
Extraneous vegetable material.	No limit	1 piece per 20 ozs. net weight.

(d) *(SStd) classification.* Canned pork and beans that fail to meet the requirements of Grade B may be given a score of 0 to 31 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 52.6451 Determining the grade of a lot.

The grade of a lot of canned pork and beans covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.83).

§ 52.6452 Score sheet for Canned Pork and Beans.

Container size.....
Container code or identification.....
Label.....
Net weight (in ounces).....
Vacuum (in inches).....
Type.....
Washed drained weight.....

Factors		Score points	
Bean to sauce ratio	20	(A)	18-20
		(B)	16-17
		(SStd.)	› 0-15
Absence of defects	40	(A)	36-40
		(B)	‹ 32-35
		(SStd.)	‹ 0-31
Character	40	(A)	36-40
		(B)	‹ 32-35
		(SStd.)	‹ 0-31
Total score	100		

Color	Good; Reasonably good.
Flavor	Good; Reasonably good.
Similar Varietal Characteristics.	Practically; Reasonably.
Grade	

› Indicates limiting rule within classification.

Dated: February 20, 1975.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.75-5077 Filed 2-25-75;8:45 am]

Farmers Home Administration

[7 CFR Part 1817]

[FmHA Instruction 440.]

UNSATISFACTORY PERFORMANCE OR IMPROPER ACTION BY PERSONS DEALING WITH APPLICANTS, BORROWERS, AND GRANTEES

Proposed Debarment Regulation

Notice is hereby given that the Farmers Home Administration (FmHA) has under consideration the amendment of Subchapter A, General Regulations, Chapter XVIII, Title 7, Code of Federal Regulations, by adding a new Part 1817, "Unsatisfactory Performance or Improper Action by Persons Dealing with Farmers Home Administration Applicants, Borrowers and Grantees." This new regulation, when it becomes effective, will replace the present regulation, Subpart J of Part 1822, and will prescribe the action to be taken by the FmHA when there is need for administrative action against any person or any representative or affiliate thereof in any program administered by FmHA.

Interested persons are invited to submit written comments, suggestions, or objectives regarding the proposed regulation to the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6315, South Building, Washington, D.C. 20250, on or before April 28, 1975. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Chief, Directives Management Branch during regular business hours (8:15 a.m. to 4:45 p.m.).

As proposed, the new Part 1817 reads as follows:

PART 1817—UNSATISFACTORY PERFORMANCE OR IMPROPER ACTION BY PERSONS DEALING WITH FARMERS HOME ADMINISTRATION APPLICANTS, BORROWERS, AND GRANTEES

Sec.
1817.1 General.
1817.2 Sanctions.
1817.3 Grounds for debarment.
1817.4 Procedure for debarment and temporary suspension.
1817.5 Suspension and debarment lists.

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 42 U.S.C. 2942; 5 U.S.C. 301, Sec. 10, Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegation of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

§ 1817.1 General.

(a) *Purpose.* This Part prescribes the action to be taken by the Farmers Home Administration (FmHA) when there is need for administrative action against any person, or any representative or affiliate thereof in connection with any program administered by FmHA. FmHA debarment deals with third party contractors rather than Government contractors. Any action to be taken under this regulation is to be corrective or for the protection of the public interest.

(b) *Definitions.* (1) Person: An individual, unincorporated association, trust, corporation, partnership, or other entity, such as purchaser, builder, contractor, dealer, realtor, broker, packager, salesman, escrow agent, sales agent, lender, holder, engineer, architect, inspector, or attorney, or any representative, affiliate or successor in interest thereof.

(2) Affiliates: Persons are affiliates of each other when directly or indirectly one person controls or has the power to control another or when a third party controls or has the power to control both.

(3) FmHA: Farmers Home Administration.

(4) OGC: The Office of the General Counsel performing legal services for the FmHA.

(5) List Officer: The Deputy Administrator—Financial and Administrative Operations, or any person designated by the Administrator of FmHA to compile and maintain a list of persons suspended and debarred by the Agency.

(6) FmHA Representative: The State Director or a qualified individual designated by the State Director to preside over a meeting under these regulations.

(7) Days: This refers to calendar days.

(8) Filing: An item is filed when it is delivered in hand.

(c) *Notices.* All notices to be sent to a person in accordance with those regulations will be sent by certified mail, return receipt requested.

§ 1817.2 Sanctions.

Debarment and temporary suspension are drastic actions which may severely affect the economic well being of the persons debarred or suspended. They shall not be based upon an unsupported accusation. In assessing whether adequate evidence exists for invoking this procedure, consideration should be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, as well as to the inference which may be properly drawn from the existence or absence of affirmative facts.

(a) *Debarment.* Debarment is the exclusion from participation in FmHA programs for a reasonable period of time commensurate with the seriousness of the person's offense or failure, or the inadequacy of his performance. Debarment may be imposed by the State Director, for a specified period of time, generally not to exceed 3 years, except in more serious cases. Debarment may also be imposed for a short, indefinite period of time, pending correction of the conditions which led to the debarment.

(b) *Temporary suspension.* Temporary suspension is the disqualification from FmHA programs for a temporary period of time in conjunction with debarment proceedings. Temporary suspension may be imposed only in cases where immediate action is necessary to protect the interests of FmHA and its program borrowers or grantees by the State Director, pending the debarment determination and based on adequate evidence supporting at least one of the grounds listed under § 1817.3. When a debarment determination adverse to the person is appealed, temporary suspension is automatic.

§ 1817.3 Grounds for debarment.

(a) A person may be debarred if any of the following have occurred within a reasonable period of time prior to institution of debarment proceedings:

(1) Serious or repetitive violation of any of the provisions of any laws administered by FmHA or any regulation issued thereunder.

(2) Serious or repetitive failure to perform obligations or carry out representations or warranties made to FmHA or to any borrower or grantee under any program administered by FmHA.

(3) Acts of misconduct where a lack of business integrity directly affecting responsibility to participate in FmHA

programs is indicated, including but not limited to false misrepresentation, embezzlement, theft, forgery, bribery, falsification of records, and receiving stolen property.

(4) Conviction of one of the following criminal offenses:

(i) One involving any statute authorizing a program administered by FmHA, or

(ii) As an incident to obtaining or attempting to obtain a private or a public contract, or subcontract thereunder, or in the performance of such contract or subcontract, or

(iii) Under the Organized Crime Control Act of 1970, or

(iv) Where a lack of business integrity directly affecting responsibility to participate in FmHA programs is indicated, including but not limited to false misrepresentation, embezzlement, theft, forgery, bribery, falsification or destruction of records, and receiving of stolen property, or

(v) Under the Federal Antitrust Statutes arising out of the submission of bids or proposals.

(5) The lack of the right to do business or practice at his profession in the jurisdiction where the contractual services are to be performed.

§ 1817.4 Procedure for debarment and temporary suspension.

(a) *Notice.* (1) When a matter subject to action under § 1817.3 arises, the County Supervisor, assisted by the District Director, will obtain as much relevant, factual information about the specific problem as is feasible and will forward such information to the State Director. The State Director may proceed on this information or on information revealed by an audit or investigation, or by a complaint or information from any source.

(2) Debarment proceedings may not commence and notice of proposed debarment or temporary suspension may not be issued without the approval of OGC. In addition, debarment proceedings involving loans or grants under Parts 1823 and 1842 of this Chapter will be reviewed and concurred in by the Administrator of FmHA before notice is given under this part.

(3) Notice shall be provided to the person and its known concerned affiliates against whom debarment is proposed in writing and signed by the State Director, and shall include all of the following elements:

(i) That debarment is proposed and that debarment is an exclusion from participation in all FmHA programs and may last as long as 3 years or may be permanent.

(ii) The scope thereof as to affiliates.

(iii) One or more of the grounds specified in § 1817.3.

(iv) A short, plain statement of the reasons for the proposed debarment.

(v) A statement that the person has a right to a meeting at which all charges may be rebutted, if requested in an answer filed with the State Director within 20 days, following receipt of the notice.

(vi) That the answer may contain additional factual statements, legal arguments, and any other writings deemed relevant to the person.

(vii) Whether or not a temporary suspension has been imposed pending a determination and in cases of temporary suspension, that a suspension is a temporary disqualification from participation in FmHA programs.

(viii) The date of the commencement of any such temporary suspension, which date may not be before the receipt of the notice.

(ix) That after 20 days following the receipt of the notice by the person, of no meeting has been requested, the debarment determination will be made by the State Director, after due consideration of such information as may be available to him.

(x) Citation of these regulations.

(b) *Answer.*—(1) Filing: The answer shall be filed with the State Director within 20 days of receipt of the notice.

(2) Contents: The answer shall contain a short and plain statement of facts which constitute ground of defense and shall admit or deny averments on which FmHA relies, unless the person is without knowledge, in which case the answer shall so state. The answer shall contain a request for a meeting with an FmHA representative if such a meeting is desired. The answer may contain additional factual statements, legal arguments, and any other writing deemed relevant by the person.

(3) Effect of failure to deny averments or submit an answer: Averments on the notice are admitted when not denied in an answer.

(4) Extension of time: The State Director, for good cause shown, may grant a timely request for an extension of time to file an answer.

(c) Meeting. (1) Request for meeting: Any person who has been notified of a proposed debarment is entitled to a meeting with an FmHA representative at which all charges may be rebutted, if requested in an answer filed with the State Director within 20 days following receipt of the notice.

(2) Time and place: The meeting shall be scheduled and shall be held promptly after receipt of the answer. The State Director, in setting the time and place for the meeting shall give consideration to the convenience of the person.

(3) Notice: The State Director shall promptly notify the parties of the time and place of the meeting.

(4) Procedure: The meeting will be an informal proceeding at which the person will be given an opportunity to rebut the charges. The person may be represented by counsel. The proceeding will not, however, be a formal hearing and will not include presentation of evidence by FmHA.

(5) Evidence: Technical rules of evidence shall not apply.

(6) Record: The record of a debarment proceeding shall include any notices and orders, the answer, any written evidence in the possession of the government or adduced by the person, and a synopsis of any oral evidence presented at the meeting. The synopsis will be prepared by FmHA and be submitted to the person for his approval and any noted exceptions.

(7) Prior adjudication: If a person has been a party to an action in a court involving any issue or issues involved in the proceeding, or if a person has been debarred by another Federal agency and such debarment involves any issue or issues involved in the proceeding, evidence of such a court holding or Federal agency debarment determination may be made a part of the record.

(8) Failure to appear: If any party to the proceeding, after being duly notified, fails to appear at the meeting without reasonable cause, he shall be deemed to have waived the right to a meeting.

(d) *Debarment determination.*—(1) Meeting held: Within 10 days after the meeting, the State Director, upon the basis of and after due consideration of the record and any other information he happens to possess, shall make a debarment determination.

(2) Meeting waived: If no meeting has been requested, the State Director, after 20 days following receipt of the notice by the person, on the basis of and after due consideration of the information he possesses, including any written rebuttal, shall make a debarment determination.

(3) Proof required: Any debarment determination in the proceeding shall be supported by and in accordance with the reliable, probative, and substantial evidence in the possession of FmHA.

(4) Prior adjudication: If a person has been a party to an action in a court involving any issue or issues involved in the proceeding, or if a person has been debarred by another Federal agency and such debarment involves any issue or issues involved in the proceeding, the State Director may accept the decision of the court or other Federal agency as to the issue or issues decided by it.

(5) Effective date: A person will be debarred upon issuance of the notice of debarment determination by the State Director.

(e) *Notice of debarment determination.*—(1) Notice of the debarment determination may not be issued without the approval of OGC.

(2) Notice of the debarment determination shall be provided to the persons affected in writing and signed by the State Director.

(3) In cases of an adverse debarment determination, the notice shall include all of the following elements:

(i) That debarment has been imposed.

(ii) The scope thereof as to affiliates.

(iii) The period of time for which debarment is imposed.

(iv) One or more of the grounds specified in § 1817.3 on which the debarment is based.

(v) That the debarment determination may be appealed to the USDA Board of Contract Appeals.

(vi) That appeals must be filed within 30 days of the issuance of the notice of the debarment determination and in accordance with the rules of the USDA Board of Contract Appeals as found in 7 CFR 2400. All communications shall be directed to the Executive Secretary, Board of Contract Appeals, U.S. Department of Agriculture, Washington, D.C. 20250.

(vii) That a copy of any notice of appeal to the Board must be filed concurrently with the FmHA State Director.

(viii) That if the debarment determination is appealed, the person will be in a status of temporary suspension until final decision by the Board.

(4) In cases of a favorable debarment determination, the notice shall indicate:

(i) That debarment will not be imposed.

(ii) In cases where a temporary suspension has been imposed, that the suspension has been lifted.

(f) *Appeals.* Appeals may be taken from an adverse debarment determination within 30 days of the issuance of the notice of such determination, unless an extension is granted by the State Director for good cause. The manner of filing appeals and the procedure on appeal shall be governed by the rules of the Board of Contract Appeals. See 7 CFR 2400. A copy of the notice of appeal required by the Board shall be forwarded concurrently to the State Director. No appeal may be taken to the Board of Contract Appeals from any temporary suspension imposed under these regulations.

(g) *Recision and reinstatement.*—(1) A person debarred under this regulation for one year or more may request reinstatement any time after 6 months have passed from the final determination as indicated by:

(i) The issuance of the notice of debarment determination by the State Director if no appeal is taken or,

(ii) Decision of the appeal by the USDA Board of Contract Appeals.

(2) A person debarred under this regulation for less than 1 year may request reinstatement at any time after the final determination.

(3) The State Director will review the request. In reaching a decision to reinstate, the State Director must be satisfied that the original wrongful act has been righted and is not likely to recur and also be persuaded by the assurance of the person in writing that the person understands the requirements of all applicable statutes and regulations, and that he will compy with them in the future.

§ 1817.5 Suspension and debarment lists.

(a) Temporary suspension. When a person is temporarily suspended either pending debarment or pending appeal, the State Director shall notify the List Officer. The List Officer will keep a list of all persons temporarily suspended under these regulations, and will distribute copies of the list to all FmHA State Directors and to the Administrator. The list of persons temporarily suspended shall not be released to any person or agency outside FmHA.

(b) *Debarment.* (1) When a person is debarred after a final decision by the USDA Board of Contract Appeals or, in cases where no appeal is taken, when the time allowed for appeal has passed, the State Director shall notify the List Officer of the debarment. The List Officer will keep a list of all persons debarred under those regulations, and will distribute copies of the list to the Administrator and to all FmHA State Directors, District Directors, and County Supervisors.

(2) The List Officer shall coordinate the debarment list with similar lists compiled by other Federal agencies by informing such agencies of additions and deletions on the debarment list and obtaining the lists of the other agencies. Such lists are obtained for informational purposes only and are not of themselves grounds for suspension or debarment by FmHA.

Dated: February 20, 1975.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.75-5145 Filed 2-25-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

NUTRITION LABELING OF FRESH FRUITS AND FRESH VEGETABLES

Notice of Proposed Rule Making

The Commissioner of Food and Drugs issued an order, published in the FEDERAL REGISTER of November 28, 1973 (38 FR 32786), temporarily exempting fresh fruits and fresh vegetables from the nutrition labeling provisions under § 1.17 (21 CFR 1.17) pending further rule making. The exemption was occasioned by a need for consideration of three separate factors:

I. Labeling of fresh fruits and fresh vegetables: Section 1.17, which establishes rules for the labeling of food with regard to nutritional value, was promulgated primarily with prepackaged food in mind. As published in the FEDERAL REGISTER of March 14, 1973 (38 FR 6951), § 1.17 envisions a food packaged and labeled in retail-sized units by the manufacturer, packer, or distributor. Moreover, § 1.8d (21 CFR 1.8d) provides that labeling required by § 1.17 must appear either on the principal display panel or on the information panel of the retail food package. However, fresh fruits and fresh vegetables are frequently not packaged in retail-sized units by the grower or distributor, and indeed are often retailed from open bins that have no principal display panel, information panel, or any other labeling.

The Commissioner has concluded that, in view of the nature of existing retail marketing practices for fresh fruits and fresh vegetables, it would be unreasonable to impose on fresh produce the provision of § 1.17 that any nutrition claim or information included in advertising by a manufacturer, packer, or distributor requires that nutrition information, in conformity with § 1.17, appear on the label of the food sold at retail. Accordingly, the Commissioner proposes that nutrition labeling, in conformity with § 1.17, be required for fresh fruits and fresh vegetables only as a part of each article of labeling which includes any nutrition claim or information. For example, if a placard over a bin of oranges in a retail food store or a "give-away" leaflet next to the bin states that oranges are "high in vitamin C," the placard or leaflet would be required also to include full nutrition labeling in conformity with § 1.17. If the labeling which provides the nutrition claim or information is a package, then the format requirements of § 1.8d would apply, i.e., the nutrition information would be required to be included either on the principal display panel or on the information panel, in the manner required by that section for all other packaged foods.

When a grower, packer or distributor of fresh fruits or fresh vegetables includes a nutrition claim or other nutrition information in his advertising but no labeling concerning nutrition is provided at the point of retail sale, the Commissioner proposes that nutrition labeling not be required on fresh fruits or fresh vegetables. Should such advertising be false or misleading in any respect, the Food and Drug Administration would seek regulatory action by the Federal Trade Commission. Thus, under this proposal it would simply be necessary for a grower, packer, distributor or retailer to assure, whenever he provides any retail labeling for fresh fruits or fresh vegetables which includes any nutrition claim or information, that the labeling include the full nutrition information required by § 1.17 and, if the labeling is a package, that the format requirements of § 1.8d be obeyed.

II. Applicability of section 405 of the Federal Food, Drug, and Cosmetic Act: The Commissioner concluded at the time of the November 28, 1973 order, which temporarily exempted fresh fruits and fresh vegetables from § 1.17 pending further rule making, that it would not be proper to subject fresh produce to the nutrition labeling regulation without articulation of the applicability of section 405 of the act (21 U.S.C. 345). Section 405 provides that, "The Secretary shall promulgate regulations exempting from any labeling requirement of this Act (1) small open containers of fresh fruits and fresh vegetables . . ."

Section 405 of the act, by its own terms, was intended to exempt small open containers of fresh fruits and fresh vegetables from the labeling "requirements" of the act. Clearly, Congress did not feel that it was necessary for an

open bin of a fresh fruit or fresh vegeand place of business of the packer or distributor, or to state the quantity of contents, or to state the name of the fruit or vegetable, all of which, in the absence of section 405 (or in the absence of an applicable exemption promulgated by the Commissioner within the scope of his discretion, e.g., §§ 1.1c(a)(1) and 1.10a(b) (21 CFR 1.1c(a)(1) and 1.10a(b)), would be required on small open containers of fresh produce, as on any other food, by sections 403(e), (g)(2) and (i)(1) of the act (21 U.S.C. 343(e), (g)(2) and (i)(1)); section 403(e) of the act also provides for exempting "small packages" from stating the quantity of contents. However, the Commissioner concludes that Congress did not intend to allow labeling voluntarily employed by a seller to be false or misleading or otherwise in violation of labeling prohibitions of the act.

This construction of the statute was first articulated by the Commissioner of Food and Drugs shortly after promulgation of the act, and it has stood unchanged since 1938. See § 1.10a(c) (21 CFR 1.10a(c)), which implements section 405 of the act. This regulation was first promulgated in the FEDERAL REGISTER of December 28, 1938 (3 FR 3161, 3165).

Thus, no one is required to provide nutrition information in labeling of fresh fruits and fresh vegetables. However, if someone chooses to provide such information, it is the Commissioner's conclusion that if the information is false or misleading, the fresh produce so labeled must be deemed to be misbranded pursuant to section 403(a) of the act (21 U.S.C. 343(a)), which provides that a food shall be deemed to be misbranded if its labeling is false or misleading in any particular, and that section 405 of the act provides no immunity. The Commissioner further concludes that when any nutrition claim or information is included in the labeling of a fresh fruit or fresh vegetable, the failure to provide full information about the nutritional value of the food, as required by § 1.17, would cause the food to be deemed to be misbranded within the meaning of section 403(a) of the act, pursuant to section 201(n) of the act (21 U.S.C. 321(n)), which provides that if an article is alleged to be misbranded because the labeling is misleading then there shall be taken into account not only representations made but also the extent to which the labeling fails to reveal facts material in the light of such representations. Section 1.17 sets forth the material facts which must be provided to avoid misbranding pursuant to sections 403(a) and 201(n) of the act whenever any nutrition claim or information is included in the labeling.

III. Compliance criteria regarding accuracy of claims concerning nutrient content: The Commissioner is aware that representatives of the fresh fruit and fresh vegetable industry objected to § 1.17 at the time of its promulgation on the grounds that the compliance criteria were unnecessarily and unreasonably restrictive. Section 1.17(e) requires that the nutrient value of a composite of 12 subsamples, i.e., consumer units, taken 1 from each of 12 different randomly chosen shipping cases of a food containing naturally occurring nutrients must equal at least 80 percent of the nutrient value declared on the label. The representatives of the fresh fruit and fresh vegetable industry complained that this was too restrictive, in that the natural and uncontrollable variation of nutrient content of fresh produce at time of harvest is allegedly so considerable that any reasonable declaration of nutrient value would be subject to more than a 20 percent variation.

The Commissioner is not at all certain that this complaint is valid. The milk industry and the canned food industry must contend with variations in nutrient content of raw produce, and yet experience with nutrition labeling of milk products and of canned foods, as discussed in this preamble, indicates that the compliance criteria in §1.17 are reasonable.

It should be noted that, not only is there a 20 percent allowance below the labeled value in the compliance criteria of § 1.17 for naturally occurring nutrients, but also compliance is based on the average of 12 consumer units, such averages being considerably less variable than individual unit values. In addition, § 1.17 requires that the nutrient content be declared in increments of 2 percent up to and including 10 percent of the U.S. RDA, in increments of 5 percent above 10 percent and up to and including 50 percent of the U.S. RDA, and in increments of 10 percent above 50 percent of the U.S. RDA. Thus, variability leading to a range of values between two permitted labeling increments is of no consequence since the lower incremental value is automatically the choice for labeling. The latitude encompassed in these provisions is fully illustrated in "Compliance Procedures for Nutrition Labeling" (Ref. 1).

The milk industry must contend with considerable natural variation in the nutrient content of raw milk, and yet through a joint effort by its trade associations, i.e., the Milk Industry Foundation (MIF), the American Dry Milk Institute, and the Evaporated Milk Association (EMA) this industry has developed reliable data for the nutrition labeling of milk products. For example, EMA has conducted a nutrient test program involving products from different industry members, geographical areas and time periods, and also different methods of analysis. Despite inclusion of all of these sources of variation, the program data readily permitted determination of nutrient values for label declaration within the compliance criteria of § 1.17. The results of the EMA program are summarized in "Nutrition Labeling—They Said It Couldn't be Done" (Ref. 2).

A somewhat different industry-effort was carried out by a task force sponsored by MIF. In this program, the task force carefully researched the existing scientific literature and demonstrated sufficient existing data and sufficient consistency of reported nutrient values to permit derivation of nutrition labeling values for various milk products (Ref. 2). The MIF subsequently produced an instructional manual for nutrition labeling of milk and milk products (Ref. 3). More recent efforts of the MIF have involved a nutrient test program for cottage cheese and yogurt. Again the nutrient test data readily permitted determination of nutrient levels for label declaration satisfying the compliance criteria of § 1.17, and a supplement for these products has been added to the MIF labeling manual.

As examples of other industry efforts to develop reliable data for nutrition labeling, two studies by the National Canners Association can be cited: "Determination of Nutritional Changes in Canned Whole Kernel Corn As a Result of Varietal and Processing Changes" (Ref. 4), and "Nutritive Value of Canned Tomato Juice" (Ref. 5). The corn study data of 1971 indicate a noticeable change in the content of vitamin A and iron when compared to earlier analyses conducted in 1942–1943. Other portions of these data demonstrate consistence with the compliance procedures of § 1.17 when evaluating nutritional variation due to growing areas and different processing methods. The tomato juice study, which reported on nutrient content of the 1969 production, evidenced some regional differences in nutrient levels for vitamin A and ascorbic acid (vitamin C) but likewise shows that the variability is within the compliance requirements of § 1.17.

The fresh fruit and fresh vegetable industry could similarly pursue such research. Perhaps members of the industry can secure the cooperation of State university schools of agriculture and agriculture experiment stations in reviewing existing literature and conducting analyses with regard to nutrient value of fresh produce. Trade associations might assist in procuring such assistance and in pooling available data.

The Commissioner will cooperate with any reasonable industry-sponsored program genuinely designed to determine expeditiously reliable nutrient information needed for nutrition labeling. For example, as published in the FEDERAL REGISTER of August 24, 1973 (38 FR 22791), the Commissioner stayed the initial effective date of § 1.17 for certain milk and cottage cheese products, in view of the milk industry program to develop nutrient data.

The Commissioner recognizes, however, that the fresh produce industry must contend with an additional variable, i.e., nutrient loss in fresh produce during shipment to points of retail sale and interim storage. It appears that such loss may be considerable, but subject to substantial variation depending upon the type and age of the product, as well as care in handling the product during shipment and storage. In the paper, "The Influence of Storage, Transportation and

Marketing Conditions on the Composition and Nutritional Values," prepared by Dr. P. H. Heinze of the U.S. Department of Agriculture for presentation at the American Medical Association Symposium on Nutritional Qualities of Fresh Fruits and Vegetables, November 9, 1972 (Ref. 7), some of the contributing factors to loss of vitamin and mineral content of fresh fruits and vegetables are discussed along with various methods for minimizing and controlling such losses. Dr. Heinze's paper indicates that, although there are losses in nutritive value of fresh fruits and vegetables during storage, transportation, and marketing, such losses are not likely to be great if (1) care is taken to keep physical damage at a minimum, (2) the time between harvesting and receipt by the consumer is not prolonged, and (3) the temperature and humidity conditions are kept near optimum for the commodity. The existence of a potentially wide variation of nutrient values based upon different conditions of shipment and storage demonstrates the need for determining that claims for nutrient values at the time of purchase are supportable by reliable data. Limited information concerning such nutrient loss is found in "Agriculture Handbook No. 8" (U.S. Department of Agriculture) (Ref. 6) with regard to specific fruits and vegetables. For example, the handbook states in Appendix B that after several months of storage, apples lose approximately one-half of their original vitamin C (ascorbic acid) content and that the vitamin C (ascorbic acid) content of individual potatoes has been reported to vary from 50–100 milligrams in freshly dug, immature potatoes to less than 10 milligrams in potatoes stored for periods of many months.

The Commissioner will entertain any reasonable comment requesting amendment of the compliance criteria now in § 1.17 as they would apply to fresh produce. This proposed regulation makes no change in the existing compliance criteria in § 1.17; it is simply a proposal designed to elicit useful public comment and does not represent a final decision with regard to the compliance criteria that should be employed for fresh fruits and fresh vegetables. However, as discussed above, other industries using raw agricultural commodities have been able to comply with § 1.17. It therefore appears to the Commissioner that those who wish to make nutrient claims for fresh fruits and fresh vegetables may likewise be able to make nutrient claims within the limits of accuracy now set forth in § 1.17, if they are willing to make a reasonable effort to determine the nutrient value commonly provided by such fresh produce at the point of retail sale.

The Commissioner advises that any proposal simply to use nutrient values for fresh produce set forth in "Agriculture Handbook No. 8" (U.S. Department of Agriculture) (Ref. 6) without further corroboration, would not appear to be justifiable. The handbook attests to its own inadequacies, as can be noted when reviewing the introductory and background portions of the publication. The figures given are not necessarily arithmetic means of all acceptable analyses for each nutrient, nor do they necessarily represent the same number of analyses. Some are weighted figures that have taken into account variables such as variety, stage of maturity, seasonal and geographic differences as well as analytical differences. They do not necessarily take into account the nutrient loss during shipment and storage noted above. Therefore, although the handbook data represent essentially average nutrient levels for particular foods, these levels have been developed, where possible, to represent general nutrient levels on a country-wide, year-round basis with no indication of the extent of variability or of the sources of variability involved in arriving at the average value given. Thus, it is not known what statistical validity is associated with each tabled value. Furthermore, it appears that some of the data in the handbook are more than 20 years old, and that changes in varieties of produce, methods of handling and processing, and in analytical methods may well make certain of these values inappropriate at present. Because of these considerations, the U.S. Department of Agriculture, with Food and Drug Administration support, has recently initiated the development of an automated nutrient data bank which may ultimately lead to the replacement of Handbook No. 8. This data bank will include information as to sample sizes and extent and sources of variation, thus permitting assessment of statistical validity, as well as encouraging updating of the recorded data as warranted.

No one has a right to engage in false or misleading labeling concerning the value of his food products simply because he finds it difficult or impractical or expensive to determine the truth about their value. If a packer or distributor cannot make accurate labeling claims about the nutrient levels in his fresh produce, then the law requires that he make no such nutrient claims at all. This requirement of accuracy applies to any labeling claim, but it is particularly pertinent with regard to nutrient claims, upon which a consumer may be expected to rely in attempting to select the most helpful foods for his diet. Now that the canned food industry is beginning to provide accurate label information about the nutrient value of canned fruits and vegetables, it would be unconscionable for the Commissioner to allow fresh produce to be sold with nutrient claims which are without valid support but which may make the fresh produce appear to be of greater nutrient value than competing canned articles, while in fact, because of nutrient losses encountered in shipment and storage of fresh produce, the nutrient value of canned produce in the retail store may be equal to or greater than that of fresh produce.

A copy of each of the following documents, to which reference is made in this preamble, will be available for public inspection in the office of the Hearing Clerk, Food and Drug Administration, as a part of the record in this rule making proceeding:

1. "Compliance Procedures for Nutrition Labeling," prepared by the Division of Mathematics, Bureau of Foods, Food and Drug Administration.

2. "Nutrition Labeling—They Said It Couldn't be Done," paper presented by Howard R. Roberts, Ph.D., Food and Drug Administration, at Joint FDA-Industry Seminar, March 14, 1974.

3. "MIF Labeling Manual," Milk Industry Foundation, Washington, D.C.

4. "Determination of Nutritional Changes in Canned Whole Kernel Corn as a Result of Varietal and Processing Changes," National Canners Association.

5. "Nutritive Value of Canned Tomato Juice," National Canners Association.

6. "Composition of Foods, Agriculture Handbook No. 8," Agricultural Research Service, U.S. Department of Agriculture, revised December 1963.

7. "The Influence of Storage, Transportation and Marketing Conditions on the Composition and Nutritional Values," paper presented by Dr. P. H. Heinze, Nutritional Program Staff, Agricultural Research Service, U.S. Department of Agriculture, at the Symposium on Nutritional Qualities of Fresh Fruits and Vegetables sponsored by the American Medical Association and held in San Diego, CA, November 9, 1972.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403(a), 701(a), 52 Stat. 1041, 1047, 1055; 21 U.S.C. 321(n), 343(a), 371(a)), and under the authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend § 1.17 by revoking paragraph (h)(10) and by adding a new paragraph (j) to read as follows:

§ 1.17 Food; nutrition labeling.

* * * * *

(h) * * *

(10) [Revoked]

* * * * *

(j) Fresh fruits and fresh vegetables are subject to this section with the following limitations:

(1) The declaration of nutrition information as provided in paragraph (c) of this section is required to appear only as a part of each article of labeling which includes any nutrition claim or information. If the labeling is a package, the requirements of § 1.8d apply.

(2) The information required by paragraph (c) of this section shall be set forth in the manner required by that paragraph, except that the information referred to in paragraph (c)(2) of this section is not required.

Interested persons may, on or before April 28, 1975, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Received comments may be

seen in the above office during working hours, Monday through Friday.

Dated: February 7, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.75-4867 Filed 2-25-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 75-NW-4-AD]

CESSNA MODEL 337 SERIES

Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Cessna Model 337 modified in accordance with Robertson Aircraft Corporation STC SA1627WE. There have been reported icing problems with the Robertson extended pitot tube that could result in loss of airspeed indication in certain icing conditions. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require modification of the pitot tube in accordance with FAA approved Robertson Aircraft Corporation instructions.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Northwest Region, Attention: The Regional Counsel, Airworthiness Rules Docket, 9010 East Marginal Way South, Seattle, Washington 98108. All communications received on or before April 1, 1975 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations by adding the following new airworthiness directive:

CESSNA: Applies to the following Model 337 modified in accordance with Robertson Aircraft Corporation STC SA1627WE, certificated in all categories.

337-0058	337-0566
337-0063	337-0577
337-0124	337-0685
337-0205	337-0695
337-0220	337-0726
337-0291	337-0728
337-0305	337-0732
337-0327	337-0741
337-0332	337-0817
337-0443	337-0822
337-0502	337-0836
337-0540	337-0880
337-0549	337-0882
337-0896	337-1082
337-0916	337-1091
337-0925	337-1108
337-0929	337-1118
337-0938	337-1124
337-0942	337-1139
337-0946	337-1154
337-0947	337-1159
337-0959	337-1162
337-0963	337-1175
337-0970	337-1177
T337-0977	337-1180
T337-0992	337-1192
337-0996	337-1210
337-1019	337-1232
T337-1036	337-1258
337-1044	337-1262
337-1052	337-1274
T337-1062	337-1276
337-1072	337-1303
337-1073	337-1307
337-1079	

Compliance required as indicated unless already accomplished.

To prevent possible loss of the pitot system accomplish the following:

Unless already accomplished, within the next 100 hours of operation after the effective date of this AD, rework the extended pitot tube by installation of Robertson Kit No. 14-118-100 in accordance with Robertson modification instructions No. 14-118-10 dated January 23, 1975, or later FAA approved revisions.

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

Issued in Seattle, Washington, February 18, 1975.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 75-5050 Filed 2-25-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-EA-1]

TRANSITION AREA

Proposed Alteration and Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Oswego, N.Y., Transition Area (40 FR 561) and designate a Cranberry Lake, N.Y., Transition Area.

There is a requirement to designate several areas of uncontrolled airspace in northwest New York State as 1200-foot floor transition area airspace to provide additional flexibility in routing aircraft via direct and radar vector routes in the enroute system. There are three irregular-shaped areas east of Watertown, N.Y., which it is proposed to designate as the Cranberry Lake, N.Y., 1200-foot floor transition area. There are several small irregular-shaped areas of uncontrolled airspace west of Watertown which it is proposed to include in the Oswego, N.Y., 1200-foot floor Transition Area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before March 28, 1975, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Oswego, N.Y., proposes the airspace action hereinafter set forth:

1. Amend Part 71, Federal Aviation Regulations so as to designate the Cranberry Lake, N.Y., 1200-foot floor Transition Area as follows:

CRANBERRY LAKE, NEW YORK

That airspace extending upward from 1200 feet above the surface beginning at the Saranac Lake, N.Y. VOR, thence southeast via the Saranac Lake VOR 134° radial to its point of intersection with the Burlington, Vermont VORTAC 215° radial; thence southwest along the Burlington, Vermont VOR TAC 215° radial to its point of intersection with the Watertown, N.Y. VORTAC 123° radial; thence northwest along the Watertown VORTAC 123° radial to the Watertown VORTAC; thence northeast along the Watertown VORTAC 033° radial to its point of intersection with the Saranac Lake VOR 311° radial; thence southeast along the Saranac Lake VOR 311° radial to Saranac Lake VOR excluding the airspace in Canada.

2. Amend Part 71, Federal Aviation Regulations by deleting the description of the Oswego, N.Y., 1200-foot floor Transition Area and by substituting the following in lieu thereof:

OSWEGO, NEW YORK

That airspace extending upward from 1200 feet above the surface beginning at latitude 43°24'00" N., longitude 76°45'00" W., to latitude 43°24'00" N., longitude 77°50'00" W.; to latitude 43°20'00" N., longitude 77°50'00" W.; to latitude 43°20'00" N., longitude 78°00'00" W.; thence north along longitude 78°00'00" W. to the U.S./Canadian border, thence east along the U.S./Canadian border to longitude 75°00'00" W.; thence to latitude 43°32'00 N., longitude 76°23'0" W.; to latitude 43°24'00" N., longitude 76°40'00" W.; to point of beginning.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Issued in Jamaica, N.Y., on February 12, 1975.

ROBERT H. STANTON,
Director, Eastern Region.

[FR Doc.75-5052 Filed 2-25-75;8:45 am]

[14 CFR Part 91]

[Docket No. 14317; Notice No. 75-5]

CIVIL SUBSONIC TURBOJET ENGINE-POWERED AIRPLANES: NOISE RETROFIT REQUIREMENTS

Proposed Regulations Submitted to the FAA by the Environmental Protection Agency

This notice of proposed rule making contains proposed regulations submitted by the Environmental Protection Agency (EPA) to the Federal Aviation Administration (FAA), pursuant to section 611 (c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92-574). Section 611 (c)(1) of the Federal Aviation Act of 1958 provides that EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom as EPA determines is necessary to protect the public health and welfare. That section also provides that the FAA "shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking." This notice is published pursuant to this provision of law.

The EPA proposals contained herein would amend Part 91 of the Federal Aviation Regulations to require civil subsonic turbojet engine-powered airplanes to comply with the noise standards of Part 36 of the Federal Aviation Regulations.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24. Comments on the overall environmental aspects of the proposed rules are specifically invited. All communications received by the FAA on or before April 4, 1975, will be considered by the FAA Administrator before taking action upon the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the FAA Rules Docket for examination by interested persons. EPA has also indicated that information copies of public comments may be sent to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW-571) U.S. Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, Virginia 20460.

Pursuant to section 611(c) of the Federal Aviation Act of 1958, the FAA will hold one or more hearings with respect to the proposals contained in this notice. A separate notice of hearing will be published in the FEDERAL REGISTER in the near future. As required by section 611(c), these hearings will be held no later than 60 days after publication of this document in the FEDERAL REGISTER.

The following EPA opinions, conclusions, and proposed regulatory language are published verbatim as received by the FAA on January 28, 1975.

EPA Proposal to FAA. Under the requirements of section 7(a) of the Noise Control Act of 1972 (Pub. L. 92-574, 86 Stat. 1234), the Administrator of the Environmental Protection Agency conducted a study of aircraft and airport noise and submitted a report thereon to the Congress. (Report on Aircraft/Airport Noise, Senate Committee on Public Works, Serial No. 93-8, Aug. 1973). Under section 611 of the Federal Aviation Act, as amended by the Noise Control Act of 1972, the Administrator of the EPA is also required, not earlier than the date of submission of his report to the Congress, to submit to the Federal Aviation Administration proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement of aircraft noise through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as the Administrator of the EPA determines is necessary to protect the public health and welfare. In accordance with the foregoing requirement, the EPA published in the FEDERAL REGISTER on February 19, 1974 (39 FR 6112) a notice of public comment period containing a synopsis of the proposed rules it is considering to achieve a satisfactory level of aircraft noise control and abatement for the protection of the public health and welfare.

The proposed rules and the type of control which each rule would implement are as follows:

Flight procedures noise control

(1) Takeoff procedures.
(2) Approach procedures.
(3) Minimum altitudes.

Source noise control

(4) Retrofit/fleet noise level.
(5) Supersonic civil aircraft noise.
(6) Modifications to Part 36 of the Federal Aviation Regulations.
(7) Propeller driven small airplanes.
(8) Short haul aircraft.

Airport operations noise control

(9) Airport goals, mechanisms and processes by which noise exposure of communities around airports can be limited to levels consistent with public health and welfare requirements.

This proposed rule, identified as the retrofit portion of item (4) above, is one of the five whose purpose is to implement engineering noise control at the source. As proposed herein the EPA believes that the rule, if adopted, would control and reduce the noise of civil subsonic turbojet engine-powered airplanes to levels as low as is consistent with available safe technological capability without imposing unreasonable economic burdens on the users of those airplanes.

A. *Regulatory background.* (1) Part 36, "Noise Standards: Aircraft Type Certification," became effective December 1, 1969 (34 FR 18355), prescribing noise measurement, noise evaluation, and noise levels for the type certification, and changes to those certificates, for subsonic transport category airplanes, and for subsonic turbojet engine-powered airplanes regardless of category.

(2) Part 36, "Noise Standards: Aircraft Type Certification" was subsequently amended on October 26, 1973 (38 FR 29574), to require new production subsonic transport category and subsonic turbojet engine powered airplanes regardless of category to comply with the noise requirements of Part 36 irrespective of the date of the type certification.

(3) Advance notice of proposed rulemaking 70-44, "Civil Airplane Noise Reduction Retrofit Requirements," published on November 4, 1970 (35 FR 16980), proposed the retrofit of existing subsonic turbojet engine powered airplanes. This proposal has not been adopted as a final rule.

(4) Advance notice of proposed rulemaking 73-3, "Civil Airplane Fleet Noise (FNL) Requirements," published on January 30, 1973 (38 FR 2769), proposed the establishment of an interim upper limit on the cumulative noise levels of each fleet operator. Under the FNL concept there would then be a phased progressive reduction of those noise levels in accordance with a logarithmic equation until July 1978, when every airplane would be required to meet the noise standards of Appendix C of Part 36. Although the FAA was of the opinion that the FNL concept is considered to be the most appropriate course to follow within current technological capabilities, it expressly stated in the notice that the FNL concept did not imply a rejection of the retrofit program.

(5) After considering the comments in response to the foregoing ANPRM 73-3, NPRM 74-14—"Civil Aircraft Fleet Noise Requirements" was published on March 27, 1974 (39 FR 11302). Under the proposal civil subsonic turbojet engine-powered airplanes with maximum weights of 75,000 pounds or more would be required to conform to Part 36—"Noise Standards: Aircraft Type and Airworthiness Certification". As distinguished from the former ANPRM 73-3, Notice 74-14 would not utilize a logarithmic equation for the determination of fleet noise levels and would apply to all civil subsonic turbojet engine-powered airplanes having standard airworthiness certificates, weighing 75,000 pounds or more, and operated under Parts 91, 121, 123, 129 and 135. Although the FAA preferred that environmental problems affecting international civil aviation be resolved by ICAO, it did not believe that foreign registered aircraft should be excluded from a fleet noise level rule pending the development of appropriate international standards. Accordingly, as proposed, the rule was made applicable to foreign aircraft while operating in the U.S., except in the case of overflights.

B. *References.* In the development of this proposed rule, the EPA conducted its own studies and evaluated several pertinent studies made by other Federal agencies and private contractors. Those studies are listed herein for the information of all interested persons and are available for examination at the FAA Rules Docket Office, GC-24, 800 Independence Avenue, SW., Washington, D.C. 20590, or the EPA Office of Noise Control Programs, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 20460. Copies of these studies prepared by Government Agencies are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(1) "Report on Aircraft/Airport Noise", Report of the Administrator of the Environmental Protection Agency in Compliance with Pub. L. 92-574, Senate Committee on Public Works, Serial No. 93-8, August 1973.

(2) "Operations Analysis Including Monitoring, Enforcement, Safety, and Cost", Report of Task Group 2, EPA NTID 73.3, July 27, 1973.

(3) "Impact Characterization of Noise Including Implications of Identifying and Achieving Levels of Cumulative Noise Exposure", Report of Task Group 3, EPA NTID 73.4, July 27, 1973.

(4) "Noise Source Abatement Technology and Cost Analysis Including Retrofitting", Report of Task Group 4, EPA NTID 73.5, July 27, 1973."

(5) "Review and Analysis of Present and Planned FAA Noise Regulatory Actions and Their Consequences Regarding Aircraft and Airport Operation", Report of Task Group 5, EPA NTID 73.6, July 27, 1973.

(6) "Public Health and Welfare Criteria for Noise", EPA Technical Document 550/9-73-002, July 27, 1973.

(7) "Standard Noise/Performance Data for Retrofit Studies" Letter from R. E. Russel (Boeing) to R. P. Skully, FAA, dated December 21, 1973.

(8) "727 Noise Retrofit Feasibility, Volume III: Upper Goal Flight Testing and Summary", Final Report FAA-RD-72-40, III, January 1973.

(9) "Refan Design Presentation", NASA Contract NA53-16814, Douglas Aircraft Co., January 16, 1974.

(10) "Aircraft Noise Reduction Technology", Report by the National Aeronautics and Space Administration to the Environmental Protection Agency for the Aircraft/Airport Noise Study, March 30, 1973.

(11) "Allocating the Costs of Alleviating Subsonic Jet Aircraft Noise", Special Report, Institute of Transportation and Traffic Engineering, University of California, Berkeley, February 1967.

(12) "Airline Industry Financial Analysis with Respect to Aircraft Noise Retrofit Programs", OST-ONA 73-1, January 1973.

(13) "Impact of the New Large Jets on the U.S. Air Transport System, 1970-1975", CAB, October 1973.

(14) "Noise Standards for Civil Subsonic Turbojet Engine-Powered Airplanes (Retrofit and Fleet Noise Level)", EPA Project Report, December 16, 1974.

C. *Introduction.* As applied to aircraft, source noise control is the application of basic design principles or special hardware to the engine/airframe combination to minimize the generation and radiation of noise. The technology of source noise control is time-dependent in that it is based upon the results of current, available, and future technology.

Current technology includes "shelf item" hardware and commonly known techniques and procedures that have been used effectively by some manufacturers. Available technology represents the results of research and development that have not been put into common practice but are available for implementation. Some performance testing may still be necessary, but reliability and effectiveness have been demonstrated in the laboratory and on model and full scale tests. Future technology represents the results of research now in progress that have not been fully tested but the results to date indicate high potential to a reasonable degree of confidence.

There is no doubt that the most effective use of technology to achieve maximum noise control is the design and development of new aircraft types. Applications of basic design principles and acoustical treatment for the control of noise can be exploited optimally when they can be integrated into the overall aircraft/engine design. Admittedly, modifications such as retrofit hardware are the least efficient use of that technology. The EPA believes that regulations for the control of aircraft noise should be constructed to be equally responsive to all technology, i.e., current, available and future, and to the extent practicable, be made applicable to all aircraft, i.e., existing, new production of an older type design, and new production aircraft of a new type design.

At the present time, there is a choice between two possible technical retrofits for noise reduction. One is known as "Quiet Nacelles" with "SAM", a sound absorbing material technology and the other is known as "Refan", a replacement of selected fan and turbine components within the engine, as well as nacelles with SAM. The Quite Nacelle technology is current for JT8D engines and available for JT3D engines, while the Refan technology may be available in the near future.

The noise proposals set forth in NPRM 74-14 only apply to available and current technology, i.e., Quiet Nacelles with SAM. Applications of future technology, i.e., Refan technology, would not be required unless subsequent amendments are adopted. Therefore, the EPA has advised the FAA that although it supports the proposals set forth in NPRM 74-14, some modifications would be necessary to bring significant relief to the public exposed to the airplanes covered by the proposed rule.

This new notice of proposed rule making is based upon the requirements proposed in NPRM 74-14 as modified by the recommendations submitted by the EPA pursuant to the mandates of section 611 of the Federal Aviation Act. Initially, it should be noted that these modified proposals apply to all civil subsonic turbojet engine-powered airplanes, regardless of weight, certificated in the standard airworthiness category. As proposed herein, they would also apply to foreign registered airplanes, operated within the U.S., except those engaged in overflights. However, since the retrofit requirements contained in this proposal reflect current and available SAM technology only, the EPA believes that the concept of a fleet noise level (FNL) similar to that proposed in NPRM 73-3 should also be considered to apply the benefits of future technology, such as a Refan, Core Engine, or Quiet Engine retrofit. The EPA accordingly is proposing a FNL rule to the FAA which would provide information that would be of assistance once future technology is determined to be current and available, in determining how and when such future technology should be applied to existing fleets.

The NASA Refan program directed to the JT8D powered airplanes indicates that a Refan retrofit for those airplanes may be practicable and perhaps superior to Quiet Nacelles in terms of lower noise levels as well as performance benefits. If so, a careful consideration should be given to a further retrofit or double retrofit program for those JT8D engine propelled airplanes previously retrofitted with Quiet Nacelles. The NASA Refan program, however, will not be completed before June of 1975, and even then additional performance and airworthiness testing will be required before the results of that program can be categorized as available technology.

The Air Transport Association (ATA) has stated in its comments to NPRM 74-14 that if any technology is to be applied to an existing machine as complex as a transport airplane, it should be fully developed, its effects should be known, the cost should be determinable, and the environmental improvement should be sufficient to justify the expenditure. The EPA shares this concern. Therefore, pending the results of the NASA Refan program the EPA has advised the FAA that it will withhold the submission of any proposal to implement the Refan retrofit of turbojet engine-powered airplanes. Should the results of that program indicate that Refan retrofit is practicable, economically reasonable, and will provide meaningful relief, the EPA will then submit a recommendation proposing to adjust Fleet Noise Level (FNL) requirements consistent with the noise level reductions available from Refan or other programs.

As previously stated, the EPA strongly supports the noise reduction requirements proposed by the FAA in NPRM 74-14. Therefore, to the extent that those standards are included herein it appears unnecessary to repeat the detailed justification set forth in that NPRM in support of those requirements. However, the principal differences between that NPRM and this proposed rule in regard to its applicability and the required installation of engine/nacelles listed by an operator are discussed herein under separate headings.

D. *Applicability.* As proposed in NPRM 74-14 the noise reduction requirements

would apply to airplanes having a maximum weight of 75,000 pounds or more. The EPA believes that all turbojet engine-powered airplanes having a maximum weight of less than 75,000 pounds that do not meet the noise levels prescribed in Part 36, are capable of meeting those levels by applications of various retrofit or reengine options. Since all newly produced airplanes of that type must comply after January 1, 1975 with the noise levels prescribed in Part 36 (§§ 21.183(e) and 36.1(d) of the Federal Aviation Regulations, there appears to be no valid justification to permit those airplanes in the existing fleets to be operated indefinitely at their present noise levels. Therefore, as proposed herein, § 91.301 would apply the noise requirements of the proposed subpart E to all civil subsonic turbojet engine-powered airplanes regardless of weight.

For the reasons stated in NPRM 74–14, this proposal would also apply to all foreign civil airplanes when operating in the U.S. except when engaged in overflights. Since such overflights would not involve a takeoff or landing at an airport in the U.S., there is no need to include them in this proposal. The rule as proposed herein would also except airplanes not having standard airworthiness certificates such as those airplanes having an experimental, provisional, or restricted airworthiness certificate. As stated in NPRM 74–14, the FAA has not determined that a retrofit to Part 36 noise levels for those airplanes would be technologically practicable at this time.

E. *Installation of engine/nacelles.* As distinguished from NPRM 74–14, § 91.305 (c) of this proposal would require the scheduled installation of each engine/nacelle on operational airplanes of the operator, if he lists such engine/nacelles as part of his "on-the-shelf" inventory. The EPA believes that a proper noise reduction for each airplane is not achieved until all of the engine/nacelles for that airplane are retrofitted. Therefore, proposed § 91.305(a)(2) would also require the operator, after June 30, 1976, to have at least one-half of the modified engine/nacelles for those airplanes listed by the operator in its aircraft record or operations specifications. But under the proposed § 91.305(c) the remaining engine/nacelles stored in its warehouse, for example, could not be included as part of the required number, unless a schedule is established and maintained for the installation of those engine/nacelles on operational airplanes at the next periodic inspection that will permit their installation.

As drafted, the provisions of the proposed § 91.305(c) permit the Administrator to authorize the installation at a time other than that specified in the operator's schedule upon demonstration to the Administrator that compliance with the schedule would adversely affect the safety of the airplane involved due to such intermix problems as unbalanced weight, thrust, drag, etc.

F. *Compliance dates.* As proposed herein the compliance dates are the same as those proposed in NPRM 74–14. Comments received in response to that NPRM contained estimates for the lead time to deliver retrofit kits for the various U.S. manufactured airplanes which ranged from 9 to 12 months for the B–747 airplane, and 10 months for the B–727 airplane. For the DC–8, however, one commentator estimated 30 months.

In response to previous comments regarding the availability of retrofit hardware, an investigation was conducted by the FAA and it was determined that retrofit designs are either available, or are being flight tested for the many types of airplanes covered by this and previous retrofit proposals. Research and development done to date has demonstrated that the basic concepts of noise suppression of turbofan engines are valid acoustically, and materials and fabrication technologies can be developed to translate these concepts into hardware that could provide an economically reasonable and a technologically practicable means of significantly reducing the noise generated by most currently certificated turbofan engine-powered airplanes. The FAA believes that if all persons (manufacturers and operators) make a determined effort to comply with the retrofit of the airplanes covered by this proposal it can be accomplished within the compliance dates specified. The FAA is aware that this proposal includes the relatively few pure turbojet engine-powered airplanes currently in service. Since no acoustic modification exists for these engines, reengineing may be required to achieve conformance with the noise levels proposed herein by July, 1978. However, based upon the rate which these airplanes are being retired from service by U.S. operators it appears that few, if any, would remain in service in the U.S. by that date.

Retrofit technology is available for all other transports and most of the business jets. The remainder of the business jets as subsequently discussed under the retrofit technology (G), could be in compliance with Part 36 noise levels by July 1, 1978, by implementation of one of the reengine options.

As proposed in this notice, all airplanes covered by the proposal, (including those airplanes operated by air taxi operators, air travel clubs, and by persons in the furtherance of a business under Part 91) would be required to be in compliance with the Part 36 noise standards not later than July 1, 1978. However, since the air carriers (U.S. and foreign) operate most of the flights of the airplanes covered by this proposal, those operations far exceed operations by other persons in terms of community noise exposure nationwide. For that reason, the intermediate compliance date for one phase of the retrofit was retained in this proposal for airplanes having a maximum weight of 75,000 pounds or more and operated by the holder of a certificate under Parts 121 or 129 of the Federal Aviation Regulations.

G. *Current and available retrofit technology.* In May 1967, NASA contracted with the McDonnell Douglas Corporation and the Boeing Company to investigate nacelle noise control modifications for operational Douglas and Boeing transports powered by JT3D turbofan engines. The NASA program successfully demonstrated by flight tests in 1969, conceptual feasibility of nacelle modifications for controlling both approach and takeoff noise of JT3D propelled aircraft.

In June 1971, the FAA initiated a nacelle noise control project directed to retrofit of the current fleet of narrow body aircraft. This project extended the NASA program to include research and development of takeoff and approach noise control for both JT3D and JT8D propelled aircraft. The purpose of this project was to provide test data to assist in determining whether certain classes of turbofan propelled airplanes in the current fleet could be modified for meaningful noise reduction in a feasible manner. The research and development work was directed to providing acoustical treatment for engines/nacelles which would permit compliance with specified noise reduction goals and which would be flight weight, flight worthy, and capable of being certificated.

The FAA project was implemented by means of three separate contracts with appropriate airframe manufacturers. A task force consisting of representatives from the research and development, regulatory, and airworthiness services of the FAA was also established to monitor the progress of those contractors and to insure that a judgment of the feasibility of noise abatement retrofit modifications was based upon production hardware that would not compromise safety.

The results of the foregoing FAA nacelle retrofit project produced flight performance and cost data for 707, DC–8, 727, 737, and DC–9 type airplanes equipped with acoustical treatment which would permit compliance with the FAR 36 noise levels. The acoustical treatment investigated included sound absorption material (SAM) and a combination of SAM and a jet noise reducer (JNR). It was found that the least complex system consisting of SAM would enable the airplanes to achieve the FAR 36 noise levels or lower in some cases. It was also found that the more complex systems consisting of SAM+JNR have the capability of decreasing the noise to levels appreciably lower than those required by FAR 36.

Quiet Nacelles containing SAM have a negligible effect on aircraft performance and provide a practicable means for the older narrow bodied transport type airplanes to comply with FAR 36. There appears to be no appreciable degradation in field length requirements and direct operating costs but possibly a small loss in range for the airplanes so modified. However, there would be a meaningful reduction in airport community noise exposure; mainly for approach operations for JT8D propelled aircraft and for both takeoff and approach operations for JT3D propelled aircraft.

It was found that quiet nacelles containing SAM+JNR, in addition to costing more per shipset, would introduce substantial degradation in performance. The performance losses, however, are not necessarily irreversible. Uprating the airframe for loading and the engine for thrust (e.g., JT8D–9 to JT8D–15) will increase the range and reduce the required field length to values approaching those of the baseline production version. Quiet Nacelles with SAM are current and available technology for the Boeing family of JT3D and JT8D propelled airplanes. For the B–727 and B–737 airplanes, the treatment is minimal; the noise reduction benefits are negligible for sideline and takeoff but significant on approach, and the costs and performance losses are so modest that it is unreasonable not to include such treatment on all new aircraft. For B–707 airplanes, the treatment is more extensive: the noise reduction benefits are substantial at all three measuring positions but especially dominant at approach; the performance losses are small; and the costs are significant but not necessarily unreasonable from a cost-effectiveness viewpoint.

Quiet Nacelles with SAM are also current and available for the Douglas family of JT3D and JT8D propelled airplanes. The QN technology is current and available state of the art and the first nacelles or retrofit kits for those airplanes covered by this proposal could be delivered about six months after the effective date of a retrofit regulation.

With respect to those airplanes covered by this proposal which have a maximum weight less than 75,000 pounds, approximately 20 percent of those airplanes (the Falcon 20 and Cessna Citation) are powered by moderate bypass ratio turbofan engines certificated in accordance with the noise requirements of Part 36. The remaining 80 percent are powered by turbojet or very low bypass ratio turbofan engines with noise characteristics similar to that of the straight turbojet. The Gulfstream 2, the largest airplane in this class, has a takeoff and sideline noise level in excess of the FAR 36 requirements. However, Grumman, in concert with Rolls Royce, has defined a program to develop a noise suppression kit for that airplane utilizing hardware developed for the F28 and BAC111 which will meet the FAR 36 requirements.

The rest of the airplanes in the General Aviation fleet are powered by small (3000 to 3500 lbs. thrust) turbojet engines which are extremely compact engines. Since small engines are less tolerant of disturbances to the basic thermodynamic cycle, small size in itself can be a problem with regard to the application of sound absorption materials (SAM) in the engine nacelle. There are, however, reengine options available for the airplanes that will permit compliance with the FAR 36 requirements before the June 30, 1978, compliance date proposed herein.

For those airplanes that are marginally shy of meeting the FAR 36 requirements (Learjet, for example), a modified exhaust nozzle may be all that is necessary to meet the current standard. Such a program is being conducted with the potential to certify the Learjet to the FAR 36 noise requirement with a redesigned exhaust nozzle.

H. *Cost/Effectiveness of Retrofit.* As stated in the preamble to NPRM 74–14 an economic analysis of the cost impact of a retrofit on the collective operators indicates that it is economically reasonable, although individual operators may consider the costs to be financially burdensome. With respect to those airplanes covered by this proposal that are operated by U.S. and foreign air carriers the FAA has noted that the Civil Aeronautics Board generally allows fare adjustments in the domestic air carrier industry to reflect increases in operating costs. This adjustment would undoubtedly include the impact of retrofit as it affects the individual carriers. Fare adjustments to reflect increases in the operating costs for U.S. or foreign flag carriers should be made in a similar manner by the International Air Transport Association (IATA). Other means of financing may be considered.

For both JT8D and JT3D airplanes, the investment cost would be approximately 648 million dollars. Based upon the projected 1980 fleet of its members, the ATA estimates the cost of a SAM retrofit to be in excess of one-half billion dollars, including $27,674,000 for increased fuel costs and $2,420,000 for increased maintenance costs for the B–707 airplanes. (Comments of the ATA to NPRM 74–14.) The IATA estimates the modifications to cost approximately one million dollars for each 4 engine turbojet airplane, and roughly $250,000 for each two and three engine turbojet airplane. It estimates the total cost for all its world wide members to be approximately 1.5 billion dollars. (Policy Statement on Noise Retrofit, IATA).

EPA estimated that the cost of modifying the jet fleet of airplanes having a weight of less than 75,000 pounds to comply with FAR 36 levels is approximately 0.3 billion dollars.

Implementation of the retrofit options of Quiet Nacelles to the JT3D and JT8D fleet would effect a substantial decrease in the impact of noise on people. Based upon the noise impact methodology of Reference 14, the EPA estimates that the equivalent number of persons exposed to a Day-Night Level (Ldn) of 75 dB will be over 800,000 fewer people, nationally. This estimate includes, in addition to Quiet Nacelles, the combined effects of the introduction of new quieter aircraft into the fleet and the use of a two-segment approach procedure.

In consideration of the foregoing, it is proposed to amend Part 91 of the Federal Aviation Regulations by adding a new Subpart E to read as follows:

Subpart E—Noise Requirements

Sec.
91.301 Applicability.
91.303 Relation to Part 36.
91.305 Interim noise requirements: subsonic turbojet engine-powered airplanes having a maximum weight of 75,000 pounds or more.
91.307 Noise requirements: all subsonic turbojet engine-powered airplanes.

Subpart E—Noise Requirements

§ 91.301 Applicability.

This subpart prescribes noise requirements for the operation within the United States of any civil subsonic turbojet engine-powered airplane having

(a) A U.S. registration certificate and a standard category airworthiness certificate; or

(b) A foreign registration certificate and lands or takes off in the United States in the conduct of an operation for which a U.S. registered airplane is required to have a standard category airworthiness certificate.

§ 91.303 Relation to Part 36.

Unless otherwise specified, all references in this subpart to the requirements of Part 36 of this chapter, include the noise levels of Appendix C of that Part, as effective on December 1, 1969, notwithstanding the provisions of that part excepting certain aircraft from those noise levels and notwithstanding the tradeoff provisions of that part.

§ 91.305 Interim noise requirements: subsonic turbojet engine-powered airplanes having a maximum weight of 75,000 pounds or more.

(a) U.S. air carriers and commercial operators. After June 30, 1976, no person holding a certificate under the provisions of Part 121 of this chapter may operate, under that certificate, an airplane covered by this subpart having a maximum weight of 75,000 pounds or more, unless—

(1) That airplane meets the requirements of Part 36 of this chapter; or

(2) The certificate holder has demonstrated to the Administrator that at least one-half of the engine/nacelles for all the airplanes covered by this subpart having a maximum weight of 75,000 pounds or more and listed by the certificate holder in its aircraft record or operations specifications, as the case may be, are of a design that permits those aircraft types to meet the requirements of Part 36 if the engine/nacelles were deployed in a full set.

(b) *Foreign air carriers.* After June 30, 1976, no foreign air carrier holding operations specifications under the provisions of Part 129 of this chapter may operate, under those operations specifications, any airplane covered by this subpart having a maximum weight of 75,000 pounds or more unless—

(1) That airplane meets the requirements of Part 36 of this chapter; or

(2) The air carrier has demonstrated compliance with the requirements of paragraph (a)(2) of this section.

(c) *Installation of engine/nacelles.* Each person authorized to operate an airplane under the provisions of paragraph (a)(2) of this section shall establish and maintain a schedule for the installation of the engine/nacelles required by that paragraph on airplanes listed in its aircraft record or operations specifications, as the case may be. Unless

otherwise authorized by the Administrator for reasons of safety, such as unbalanced weight, thrust, or drag, each installation shall be scheduled to be performed at the first periodic inspection of the airplane at which the ground time is adequate to perform the installation.

§ 91.307 Noise requirements; all subsonic turbojet engine-powered airplanes.

After June 30, 1978, no person may operate any airplane covered by this subpart unless that airplane meets the requirements of Part 36 of this chapter.

(Secs. 313(a) 601, 603, and 611, Federal Aviation Act of 1958 (49 U.S.C. 1354(a)), 1421, 1423, 1424, and 1431 as amended by the Noise Control Act of 1972 (Pub. L. 92-574); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C. on February 20, 1975.

CHARLES R. FOSTER,
Director of Environmental Quality.

[FR Doc.75-5096 Filed 2-25-75;8:45 am]

[14 CFR Parts 121 and 129]

[Docket No. 14318; Notice No. 75-6]

FLEET NOISE LEVEL REQUIREMENTS

Proposed Regulations Submitted to the FAA by the Environmental Protection Agency

This notice of proposed rule making contains proposed regulations submitted by the Environmental Protection Agency (EPA) to the Federal Aviation Administration (FAA), pursuant to section 611 (c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92-574). Section 611(c)(1) of the Federal Aviation Act of 1958 provides that EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom as EPA determines is necessary to protect the public health and welfare. That section also provides that the FAA "shall consider such proposed regulations submitted by EPA under this paragraph and shall, within thirty days of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking." This notice is published pursuant to this provision of law.

The EPA proposals contained herein would amend Parts 121 and 129 of the Federal Aviation Regulations to require initial and annual reporting of noise data and operational information required to establish each operator's Fleet Noise Levels.

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24. Comments on the overall environmental aspects of the proposed rules are specifically invited. All communications received by the FAA on or before April 25, 1975, will be considered by the FAA Administrator before taking action upon the proposed rules. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the FAA Rules Docket for examination by interested persons. EPA has also indicated that information copies of public comments may be sent to: Director, Standards and Regulations Division, Office of Noise Abatement and Control (AW-571) U.S. Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, Virginia 20460.

Pursuant to section 611(c) of the Federal Aviation Act of 1958, the FAA will hold one or more hearings with respect to the proposals contained in this notice. A separate notice of hearing will be published in the FEDERAL REGISTER in the near future. As required by section 611 (c), these hearings will be held no later than 60 days after publication of this document in the FEDERAL REGISTER.

The following EPA opinions, conclusions, and proposed regulatory language are published verbatim as received by the FAA on January 28, 1975.

EPA Proposal to FAA. Under the requirements of section 7(a) of the Noise Control Act of 1972 (Pub. L. 92-574, 86 Stat. 1234), the Administrator of the Environmental Protection Agency conducted a study of aircraft and airport noise and submitted a report thereon to the Congress. (Report on Aircraft/Airport Noise, Senate Committee on Public Works, Serial No. 93-8, Aug. 1973). Under section 611 of the Federal Aviation Act, as amended by the Noise Control Act of 1972, the Administrator of the EPA is also required, not earlier than the date of submission of his report to the Congress, to submit to the Federal Aviation Administration proposed regulations to provide such control and abatement of aircraft noise and sonic boom (including control and abatement of aircraft noise through the exercise of any of the FAA's regulatory authority over air commerce or transportation or over aircraft or airport operations) as the Administrator of the EPA determines is necessary to protect the public health and welfare. In accordance with the foregoing requirement, the EPA published in the FEDERAL REGISTER on February 19, 1974 (39 FR 6112) a notice of public comment period containing a synopsis of the proposed rules it is considering to achieve a satisfactory level of aircraft noise control and abatement for the protection of the public health and welfare.

The proposed rules and the type of control which each rule would implement are as follows:

Flight procedures noise control

(1) Takeoff procedures.
(2) Approach procedures.
(3) Minimum Altitudes.

Source noise control

(4) Retrofit/fleet nois level.
(5) Supersonic civil aircraft noise.
(6) Modifications to Part 36 of the Federal Aviation Regulations.
(7) Propeller driven small airplanes.
(8) Short haul aircraft.

Airport operations noise control

(9) Airport goals, mechanisms and processes by which noise exposure of communities around airports can be limited to level consistent with public health and welfare requirements.

This proposed rule, identified as the Fleet Noise Level portion of item (4) above, is one of the five whose purpose is to monitor and assess the fleet operator's implementation of operational control and/or engineering noise control at the source. As proposed herein the EPA believes that the rule, if adopted, will encourage control and reduction of civil airplane fleet noise to levels as low as is consistent with available safe technological capability without imposing unreasonable economic burdens on the users of those airplanes.

A. *Regulatory Background.* (1) Part 36, "Noise Standards: Aircraft Type Certification", became effective December 1, 1969 (34 FR 18355), prescribing noise measurement, noise evaluation, and noise levels for the type certification, and changes to those certificates, for subsonic transport category airplanes, and for subsonic turbojet engine-powered airplanes regardless of category.

(2) Part 36, "Noise Standards: Aircraft Type Certification" was subsequently amended on October 26, 1973 (38 FR 29574), to require new production subsonic transport category and subsonic turbojet engine-powered airplanes regardless of category to comply with the noise requirements of Part 36 irrespective of the date of the type certification.

(3) Advance Notice of Proposed Rulemaking 70-44, "Civil Airplane Noise Reduction Retrofit Requirements", published on November 4, 1970 (35 FR 16980), proposed the retrofit of existing subsonic turbojet engine-powered airplanes. This proposal has not been adopted as a final rule.

(4) Advance Notice of Proposed Rulemaking 73-3, "Civil Airplane Fleet Noise (FNL) Requirements", published on January 30, 1973 (38 FR 2769), proposed the establishment of an interim upper limit on the cumulative noise levels of each fleet operator. Under the FNL concept there would then be a phased progressive reduction of those noise levels in accordance with a logarithmic equation until July, 1978, when every airplane would be required to meet the noise standards of Appendix C of Part 36. Although the FAA was of the opinion that the FNL concept was considered to be the most appropirate course to follow within current technological capabilities, it expressly stated in the notice that the FNL concept did not imply a rejection of the retrofit program.

(5) After considering the comments in response to the foregoing ANPRM 73-3, the FAA issued NPRM 74-14 "Civil Aircraft Fleet Noise Requirements" on March 27, 1974 (39 FR 11302). Under that proposal civil subsonic turbojet engine-powered airplanes with maximum

weights of 75,000 pounds or more would be required to conform to Part 36—"Noise Standards: Aircraft Type and Airworthiness Certification". As distinguished from the former ANPRM 73-3, NPRM 74-14 would not utilize a logarithmic equation for the determination of fleet noise levels. It would apply to all civil subsonic turbojet engine-powered airplanes having standard airworthiness certificates, weighing 75,000 pounds or more, and operated under Parts 91, 121, 123, 129 and 135. Although the FAA preferred that environmental problems affecting international civil aviation be resolved by ICAO, it did not believe that foreign registered aircraft should be excluded from a fleet noise level rule pending the development of appropriate international standards. Accordingly, as proposed, the rule was made applicable to foreign aircraft while operating in the U.S., except in the case of overflights.

B. *References.* In the development of this proposed rule, the EPA conducted its own studies and evaluated several pertinent studies made by other Federal agencies and private contractors. Those studies are listed herein for the information of all interested persons and are available for examination at the FAA Rules Docket Office, GC-24, 800 Independence Avenue, SW., Washington, D.C. 20590, or the EPA Office of Noise Control Programs, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, Va. 20460. Copies of these studies prepared by Government Agencies are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(1) "Report on Aircraft/Airport Noise", Report of the Administrator of the Environment Protection Agency in Compliance with Pub. L. 92-574, Senate Committee on Public Works, Serial No. 93-8, August 1973.

(2) "Operations Analysis Including Monitoring, Enforcement, Safety, and Cost", Report of Task Group 2, EPA NTID 73.3, July 27, 1973.

(3) "Impact Characterization of Noise Including Implications of Identifying and Achieving Levels of Cumulative Noise Exposure", Report of Task Group 3, EPA NTID 73.4, July 27, 1973.

(4) "Noise Source Abatement Technology and Cost Analysis Including Retrofitting", Report of Task Group 4, EPA NTID 73.5, July 27, 1973.

(5) "Review and Analysis of Present and Planned FAA Noise Regulatory Actions and Their Consequences Regarding Aircraft and Airport Operation", Report of Task Group 5, EPA NTID 73.6, July 27, 1973.

(6) "Public Health and Welfare Criteria for Noise", EPA Technical Document 550/9-73-002, July 27, 1973.

(7) "Standard Noise/Performance Data for Retrofit Studies", Letter from R. E. Russel (Boeing) to R. P. Skully, FAA, dated December 21, 1973.

(8) "727 Noise Retrofit Feasibility, Volume III: Upper Goal Flight Testing and Summary", Final Report FAA-RD-72-40, III, January 1973.

(9) "Refan Design Presentation", NASA Contract NA53-16814, Douglas Aircraft Co., January 16, 1974.

(10) "Aircraft Noise Reduction Technology", Report by the National Aeronautics and Space Administration to the Environmental Protection Agency for the Aircraft/Airport Noise Study, March 30, 1973.

(11) "Allocating the Costs of Alleviating Subsonic Jet Aircraft Noise", Special Report, Institute of Transportation and Traffic Engineering, University of California, Berkeley, February 1967.

(12) "Airline Industry Financial Analysis with Respect to Aircraft Noise Retrofit Programs", OST-ONA 73-1, January 1973.

(13) "Impact of the New Large Jets on the U.S. Air Transport System, 1970-1975", CAB, October 1973.

(14) "Noise Standards for Civil Subsonic Turbojet Engine-Powered Airplanes (Retrofit and Fleet Noise Level)", EPA Project Report, December 16, 1974.

C. *Introduction.* The Fleet Noise Level (FNL) concept was initially proposed by the FAA in ANPRM 73-3 described in paragraph (4), above, of the regulatory background. As proposed in that notice, the FNL concept is based upon the principle that a meaningful single-number evaluator (figure-of-merit) of the noise generated by a fleet of airplanes could be expressed by the logarithmic average of the product of the noise level of each type of airplane and the number of operations performed by that type of airplane over a representative period of time. The EPA studies leading to the EPA report to Congress on aircraft and airport noise (Ref. 1, above), which included a study of FAA regulatory actions, made the following conclusion in regard to the concept and structure of the FNL:

> The concept and structure of the FNL proposal appears adequate to effectively exploit the current technology (nacelle retrofit) and to allow and encourage the near future technology (refan retrofit) to contribute as it becomes operable, and to encourage the phaseout of existing aircraft by the introduction of new wide-body and other quiet aircraft. In addition, the FNL concept would periodically provide a great deal of useful information to the Government on air-carrier fleet size, mix, and utilization.

Although the principle and concept are sound, the FAA's proposal for the use of this concept in the noise control rule proposed in ANPRM 73-3 met with considerable opposition, and it was subsequently reissued in a modified form as a new notice of proposed rule making (NPRM 74-14). That NPRM required either the retrofit of operational aircraft which do not meet the requirements of Part 36 with current and available noise control technology, or the retirement of those aircraft from fleet operations. In a separate rule making action the EPA has recommended the adoption of the retrofit proposals made by the FAA, but recommends that the provisions of the retrofit proposal be extended to all turbojet engine-powered airplanes.

The EPA believes that the concept and principle of deriving a quantitative noise figure-of-merit for fleet operations such as FNL, as originally proposed by the FAA, is good, and can be modified as a reporting requirement that may be used to provide the operator, the Government, and the public with a mechanism for evaluating and adjusting fleet composition and utilization to achieve lower individual and overall FNLs.

D. *Applicability.* The original FAA proposal met with some opposition because, among other things, it was applicable only to air-carriers engaging in interstate air commerce. Therefore, although it applied to United States domestic air carrier fleets, it did not apply to overseas operations of domestic air carriers, intrastate operators, or to operations into and out of the United States by foreign air carriers. To correct that deficiency the rule as proposed herein would apply to all U.S. and foreign air carriers conducting operations within, into, or out of the United States. Moreover, it would apply to commercial operators such as contract carriers and intrastate commerce carriers conducting operations under Part 121. As proposed the rule would apply to all civil subsonic turbojet engine-powered airplanes regardless of weight, and to future supersonic airplanes, i.e., those airplanes for which an application for a type certificate is made after August 6, 1970. This date would not include the present Concorde or TU-144 supersonic airplanes for which an environmental noise impact assessment would be required under a separate rule making action recommended by the EPA. In addition, the proposed rule would not include fleets operated by air taxi operators, travel clubs, or persons operating an aircraft as an incident to their business. Application to those fleet operations is believed to be impractical and unwarranted at this time.

E. *Purpose.* The air-carrier fleets are the primary cause of the noise impact areas in the vicinity of the approximately 400 major air-carrier airports in the United States. Separate rulemaking action related to retrofit of airplanes in these fleets, if promulgated as a rule, will insure implementation of current noise control technology on the existing air-carrier fleet. After such action, however, there are no plans for implementation of future technology as it becomes current and available. Therefore, the EPA believes that a noise level, using a single-number figure-of-merit denoted as FNL, should be established for each air carrier. This FNL would offer the public, the Government and the operators a convenient method of monitoring the relative noise output of each fleet. In addition, it would provide a uniform method of determining whether the fleet operators were taking advantage of current and available noise reduction options.

Although the EPA believes that the establishment of a FNL would also provide a regulatory mechanism, if necessary, for lowering noise levels whenever future technology becomes current and available, this proposal only requires the reporting of the actual FNLs, of those operators covered by the proposal. Should it appear necessary to establish a mandatory FNL it would, of course, be accomplished by separate rulemaking actions if the FAA finds that sufficient technology options are available to achieve a particular level and those options are technologically practicable and economically reasonable.

F. *Methodology.* The logarithmic average formula used in the FNL computation weights the noise from each airplane approximately as the human ear responds (in the same manner, for example, as the Ldn methodology recommended by the EPA for cumulative noise exposure). The noisiest airplanes are given the most emphasis by the formula, clearly indicating which airplanes produce the greatest noise impact and which need the most noise control. All of the information required for the formula (noise levels of each airplane type and their number of operations) is routinely available. The noise levels of all airplanes involved are available from the FAA Advisory Circular AC 36-1, or in the case of future airplanes will be available as a result of Part 36 noise certification. The yearly operations of all air carrier and commercial operators are also available since they are routinely provided to the FAA and/or the CAB by these operators. It is not anticipated that any additional information or data acquisition will be necessary under this proposal. Although the computation of the FNL of each operator will be necessary, it can be readily accomplished by the operators concerned by using a scientific desk or pocket calculator or slide rule.

The proposed rule would also require the airlines and operators covered by the rule to provide their FNLs for publication in the Federal Register each calendar year. This publication would also include the relative difference between the actual FNL and the FNL that would result if the airplanes complied with the FAR 36 noise levels. It is this difference that would be the true figure-of-merit by which all airlines could be compared.

The foregoing establishment of a FNL is simple and imposes no undue burden upon the operators covered by this proposal. The EPA believes that establishing FNLs on an annual average basis is more appropriate and administratively far more practicable than the original FAA proposal of ninety day evaluation periods. Additionally, the reported FNLs could easily constitute a concise noise assessment for current or proposed operational changes by one or more operators.

In consideration of the foregoing, it is proposed to amend Parts 121 and 129 of the Federal Aviation Regulations as follows:

1. By amending Part 121, by adding a new subpart X and Appendix G to read as follows:

Subpart X—Fleet Noise Levels (FNL)

Sec.

121.801 Applicability.
121.803 Inspection authority.
121.805 Relation to Part 36.
121.807 Weight limits: operating limitations.
121.809 Noise level data and information.
121.811 Procedure for determining initial FNL values.
121.813 Annual reporting requirements.
121.815 Annual publication of FNLs.
Appendix G—Fleet noise level calculations.

Subpart X—Fleet Noise Level Requirements

§ 121.801 Applicability.

(a) This subpart prescribes noise data and information reporting requirements effective on and after January 1, 1976, for the operation within the United States of any civil subsonic or future supersonic turbojet engine-powered airplane by each certificate holder covered by § 121.1.

(b) As used in this subpart, a future supersonic turbojet engine-powered airplane means an airplane of that type for which an application for a type certificate or an amendment thereto, is made after August 6, 1970.

§ 121.803 Inspection authority.

Each certificate holder shall allow the Administrator at any time or place, to make any inspections of records, data, and facilities necessary to determine continuing compliance with this subpart. All required records and data shall be maintained in current status by the operator for this purpose at his business office or operations base.

§ 121.805 Relation to Part 36.

(a) Unless otherwise specified, all references in this subpart to the requirements of Part 36 of this chapter, include the noise levels of Appendix C of that Part, as effective on December 1, 1969, notwithstanding the tradeoff provisions of that part.

(b) All data and information submitted under this subpart for the purpose of establishing sideline, takeoff, and approach noise levels of individual airplane types must be adequate to show equivalence with §§ 36.3, 36.5, 36.101, 36.103, 36.1501, 36.1581, C36.1, C36.3, C36.7, and C36.9 of Part 36 of this chapter. The noise levels for a particular airplane type are determined by the Administrator in accordance with those sections.

§ 121.807 Weight limits: operating limitations.

Any weight, less than maximum weight or design landing weight, that is used in determining the sideline, takeoff, or approach noise, respectively, for any airplane under this subpart must be established as an operating limitation for that airplane. The noise levels associated with weights less than maximum, not determined in accordance with Part 36 of this chapter, shall be approved by the Administrator.

§ 121.809 Noise level data and information.

(a) Except as provided in paragraph (b) of this section, no certificate holder may operate an airplane covered by this subpart unless he has submitted to the Administrator:

(1) The total number of takeoffs and approaches conducted by him during the 12 months preceding January 1, 1976;

(2) All data and information necessary to determine the sideline, takeoff, and approach noise levels of each airplane covered by this subpart and operated by him during the 12 months preceding January 1, 1976; and

(3) Based upon the data and information in subparagraphs (1) and (2) of this section, the sideline, takeoff, and approach FNLs computed under Appendix G of this part, that were generated by that operator for the 12 month period described in paragraph (b) of this section.

(b) A person who is issued an operating certificate on or after January 1, 1976, shall submit the data and information required in paragraph (a) of this section for operations conducted within the 12 months immediately after the date on which that certificate was issued.

§ 121.811 Procedure for determining initial FNL values.

(a) For the information of all interested persons, the initial set of sideline, takeoff and approach FNLs computed by each certificate holder under § 121.809 (b)(3) and concurred in by the Administrator are published in the FEDERAL REGISTER as soon as practicable after receipt thereof by the Administrator.

(b) If an operator is unable to establish a representative sideline, takeoff, or approach FNL, an FNL that the Administrator determines is reasonable and representative of that certificate holder's experience is published in the FEDERAL REGISTER as the FNL for that certificate holder.

(c) Each determination made by the Administrator under paragraph (b) of this section becomes effective 60 days after publication thereof in the FEDERAL REGISTER unless the operator petitions the Administrator personally to reconsider that determination. The petition must be accompanied by all data and information upon which the reconsideration is based.

(d) Unless otherwise notified by the Administrator, whenever a petition for reconsideration of a FNL is made under paragraph (c) of this section, the effective date of that FNL is postponed pending the disposition thereof by the Administrator.

(e) After consideration of all relevant material presented in the petition, the Administrator republishes any changes in the FNL that he finds reasonable and representative for that certificate holder, or notifies the certificate holder of the denial.

(f) Unless otherwise notified by the Administrator, each FNL for which an operator has requested a reconsideration under this section shall become effective 30 days after the date that the change is published in the FEDERAL REGISTER, or the certificate holder is notified of the denial.

§ 121.813 Annual reporting requirements.

Each certificate holder shall prepare a report containing the data and informa-

tion required in § 121.809 for each calendar year in which he conducts operations under this Part. It shall be submitted to the Administrator within 60 days after the last day of the calendar year covered by the report.

§ 121.815 Annual publication of FNLs.

Within thirty days after receipt of the annual data and information required in § 121.813, a notice of the Fleet Noise Levels appropriate to each certificate holder is published in the FEDERAL REGISTER for the information of all interested persons. The notice includes the name of each certificate holder, his most recently reported FNLs and the relative differences between his actual FNLs and the FNLs that could be achieved if the noise levels of his airplane were equal to those required by Part 36 of this chapter for airplanes having corresponding weights.

APPENDIX G—FLEET NOISE LEVEL CALCULATIONS

SECTION 1. *General.* This Appendix contains the methods of calculating the sideline, takeoff, and approach fleet noise levels (FNL) of an operator's fleet under Subpart X of this Part.

SEC. 2. *Mean Logarithmic Equation.* The following mean logarithmic equation shall be used:

$$FNL = 10 \log \frac{\sum_{j=1}^{n} (Nj) \text{ ant } (Lj/10)}{\sum_{j=1}^{n} (Nj)}$$

where:

FNL = Fleet Noise Level, in units of dB.
Nj = Number of operations for airplane type j.
Lj = Noise level of airplane type j at a Part 36 measuring point, determined as specified in § 121.805, in units of EPNdB.

Three Fleet Noise Levels are computed using the above formula; one for each of the three (sideline, takeoff, and approach) noise levels, Lj, for each aircraft type.

2. By amending Part 129 by adding new sections and an appendix to that Part prescribing the same FNL requirements proposed in section 1, above, for those operations conducted by each foreign air carrier to or from an airport located within the United States.

(Secs. 313(a), 601, 603, 604, 607, and 611 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421, 1423, 1424, 1427, and 1431); sec. 2(b)(2) and 6(c) of the Department of Transportation Act (49 U.S.C. 1651 (b)(2) and 1655(c)).)

Issued in Washington, D.C. on February 20, 1975.

CHARLES R. FOSTER,
Director of Environmental Quality.

[FR Doc.75-5097 Filed 2-25-75;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1952]

SOUTH CAROLINA

Proposed Supplements to Approved Plan; Correction

The document concerning proposed supplements to the South Carolina Plan under Subpart C of Part 1952 of Chapter XVII of Title 29 of the Code of Federal Regulations, published in the FEDERAL REGISTER on Thursday, January 23, 1975, at 40 FR 3606, is corrected by changing the address of the State designee, the South Carolina Department of Labor, from 1710 Gervais Street, Columbia, South Carolina 29201, to 3600 Forest Drive, Fourth floor, Columbia, South Carolina 29204.

The mailing address of the South Carolina Department of Labor remains Post Office Box 11329, Columbia, South Carolina 29211.

Signed at Washington, D.C. this 20th day of February, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-5061 Filed 2-25-75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 336-8]

INDIANA IMPLEMENTATION PLAN

Proposed Revision

On May 31, 1972 (37 FR 10864), pursuant to section 110 of the Clean Air Act, 42 U.S.C. 1857c5, the Administrator approved, with specific exceptions, the implementation plan submitted by the State of Indiana for attainment of the national ambient air quality standards.

On September 26, 1974 (39 FR 34533), the Administrator disapproved the legal authority of selected States having provisions in their State codes which would deny the public free access to all emission data collected by any State agency. The State of Indiana was included in those States that were disapproved.

On October 10, 1974, the State of Indiana submitted a plan revision to the Regional Administrator. The revision specifically excludes "effluent or emission data" from those records which will be considered, treated, or protected as confidential by the technical secretary of the Indiana Air Pollution Control Board. The purpose of this notice is to announce receipt of this plan revision and to invite public comment.

Copies of this plan revision submitted by the State of Indiana are available for public inspection during regular business hours at the EPA Regional Office, Region V, Federal Building, 230 South Dearborn, Chicago, Illinois 60604 and the Freedom of Information Center, EPA, 401 M Street, SW., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting comments in triplicate to the Division of Stationary Source Enforcement, Washington, D.C. Attention: Mr. Barry Russell. All comments received on or before March 28, 1975 will be considered.

(42 U.S.C. sec. 1857C-5(a))

Dated: February 20, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.75-5025 Filed 2-25-75;8:45 am]

[40 CFR Part 52]

[FRL 336-2]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Kansas: Approval and Disapproval of Compliance Schedules

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved portions of State plans for implementation of the national ambient air quality standards, and on September 22, 1972, in the FEDERAL REGISTER (37 FR 19809), the Administrator promulgated § 52.876 Compliance Schedules as a part of the Kansas Implementation Plan.

The State of Kansas submitted to the Environmental Protection Agency compliance schedules as variances and enforcement orders to be considered as proposed revisions to the approved plans pursuant to 40 CFR 51.6 and 40 CFR 51.7(d)(2). 40 CFR 51.8 requires the Administrator to approve or disapprove compliance schedules submitted by the States. Therefore, the Administrator proposes the approval and disapproval of the compliance schedules listed below.

The approvable schedules were adopted by the States and submitted to the Environmental Protection Agency after notice and public hearings in accordance with the procedural requirements of 40 CFR 51.4, 51.6, and 51.7(d)(2) and the substantive requirements of 40 CFR 51.15 pertaining to compliance schedules. The compliance schedules have been reviewed and determined to be consistent with the approved control strategies of Kansas.

Each approved revision establishes a new date by which the individual source must comply with the applicable emission limitation in the federally approved State Implementation Plan. This date is indicated in the table below, under the heading "Final Compliance Date."

The following schedules are amendments to previously proposed compliance schedules: Clay Center Dehydrating Company, Clay Center; Colorado Interstate Gas Company, Lakin; Fredonia Dehydrating & Milling Company, Fredonia; Mid-America Dairymen, Sabetha; North Central Foundry, Inc., Enterprise; Satanta District Hospital, Satanta; U.S.D. #256, Moran; U.S.D. 457, Garden City; Western Alfalfa Corporation, Lowe; Certain-Teed Products, Kansas City; C. K. Products Company, Inc., Salina; Northern Natural Gas, Holcomb; Owens-Corning Fiberglas Corp., Kansas City; Rodney Milling Company, Topeka; U.S.D. #415, Hiawatha; U.S.D. #506, Altamont; Buffalo Industry, Inc., Garden City; Central Non-Ferrous, Inc., Fort Scott; Mesa Petroleum Company, Ulysses; National Gypsum Company (Gold Bond Products), Medicine Lodge; C. K. Processing Company, Manhattan; Western Alfalfa, Belle Plaine; Western Alfalfa, Garden City; Western Alfalfa, Larned; Western Alfalfa, Oxford; Western Alfalfa, Peterson; Coffeyville Memorial Hospital, Coffeyville; Bayer Construction Company,

Manhattan, and Greenwood County Hospital, Greenwood.

The schedules proposed to be disapproved in this notice fail to meet the requirements of 40 CFR 51.15(b)(1), in that the compliance schedules extend beyond the attainment date in the State Implementation Plan. The schedule for Western Iron & Foundry Company, Wichita, is disapproved as not being expeditious.

In the indication of proposed approval and disapproval of individual compliance schedules, the individual schedules are included by reference only. In addition, since the large number of compliance schedules preclude setting forth detailed reasons for approval or disapproval of individual schedules in the FEDERAL REGISTER, an evaluation report has been prepared for each individual compliance schedule. Copies of these evaluation reports are available for public inspection at the Environmental Protection Agency Regional Office, 1735 Baltimore, Kansas City, Missouri 64108. The compliance schedules proposed to be approved or disapproved, and the State Implementation Plans are available for public inspection at the Environmental Protection Agency Regional Office; the Environmental Protection Agency, Division of Stationary Source Enforcement, 401 M Street, Washington, D.C.; and the Kansas State Department of Health and Environment, Forbes Air Force Base, Building 740, Topeka, Kansas.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the Region VII Office at the above address. All comments submitted by March 28, 1975, will be considered. All comments received, as well as copies of the applicable implementation plans, will be available for inspection during normal business hours at the Regional Office.

This proposed rulemaking is issued under the authority of section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5.

Dated: February 12, 1975.

CHARLES V. WRIGHT,
Acting Regional Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

Subpart R—Kansas

1. In § 52.876, the tables in paragraph (c)(1) and (c)(2) are amended by adding the following:

§ 52.876 Compliance schedules.

* * * * *

(c) * * *

KANSAS

Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
*	*	*	*	*	*
Clay Center Dehydrating Co., alfalfa dehydrator.	Clay Center	28-19-20	Oct. 4, 1974	Immediately	July 1, 1975
Colorado Interstate Gas Co., safety flare.	Lakin	28-19-45	do	do	Nov. 15, 1974
Fredonia Dehydrating & Milling Co., alfalfa dehydrator.	Fredonia	28-19-20	do	do	July 1, 1975
Greenwood County Hospital, incinerator.	Eureka	28-19-40	do	do	June 1, 1975
Mid-America Dairymen, spray dryers No. 1 & No. 2.	Salsetha	28-19-20	do	do	Nov. 1, 1974
Minneola District Hospital, incinerator.	Minneola	28-19-40 28-19-41	do	do	Oct. 1, 1974
U.S.D. No. 457:					
Friend Elementary, incinerator	Garden City	28-19-40	do	do	July 1, 1975
Jenny Barker Elementary, incinerator.	do	28-19-40	do	do	Do.
Lincoln Elementary, incinerator	do	28-19-40	do	do	Do.
Pierceville-Plymell Elementary, incinerator.	do	28-19-40	do	do	Do.
Theoni Elementary, incinerator	do	28-19-40	do	do	Do.
Valentine Elementary, incinerator.	do	28-19-40	do	do	Do.
U.S.D. No. 256, Marmaton Valley High, incinerator.	Moran	28-19-40	do	do	Jan. 1, 1975
North Central Foundry, Inc., Gray Iron Foundry cupola.	Enterprise	28-19-20	do	do	Dec. 31, 1974
Satanta District Hospital, incinerator	Satanta	28-19-40 28-19-41	do	do	July 1, 1975
Scott County Hospital, incinerator	Scott City	28-19-40 28-19-41	do	do	Apr. 30, 1975
Sherwin-Williams Co., oxide calciner exhaust.	Coffeyville	28-19-50A	do	do	July 31, 1975
Western Alfalfa Corp., alfalfa dehydrating plant.	Lowe	28-19-20	do	do	Do.
Certain-Teed Products Corp., K-2 Furnace Plan "A".	Kansas City	28-19-20	Nov. 22, 1974	do	Do.
C. K. Products Co., Inc., alfalfa dehydrator.	Salina	28-19-20	do	do	July 1, 1975
H. B. H. Rock Co., Inc., secondary crushing and screening.	Burlington	28-19-20	do	do	July 31, 1975
Northern Natural Gas Co., flare pit	Holcomb	28-19-45	do	do	Mar. 1, 1975
Owens-Corning Fiberglas Corp., No. 70 glass furnace.	Kansas City	28-19-20 28-19-50	do	do	Do.

Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
* * * *		*	*	*	*
U.S.D. No. 415:					
Fairview Elementary, open burning.	Hiawatha	28-19-45	do	do	July 31, 1975
Hiawatha Elementary, open burning.	do	28-19-45	do	do	Do.
Hiawatha High School, open burning.	do	28-19-45	do	do	Do.
Reserve Elementary, open burning.	do	28-19-45	do	do	Do.
Robinson Elementary, open burning.	do	28-19-45	do	do	Do.
Robinson Jr. High, open burning	do	28-19-45	do	do	Do.
U.S.D. No. 506:					
Altamont Grade School, open burning.	Altamont	28-19-45	do	do	Do.
Fairview Grade School, open burning.	do	28-19-45	do	do	Do.
Bartlett Grade School, open burning.	do	28-19-45	do	do	Do.
Ellis Grade School, open burning	do	28-19-45	do	do	Do.
Edna Grade School, open burning	do	28-19-45	do	do	Do.
Angola Grade School, open burning.	do	28-19-45	do	do	Do.
Mound Valley Grade School, open burning.	do	28-19-45	do	do	Do.
Dennis Grade School, open burning.	do	28-19-45	do	do	Do.
Meadow View Grade School, open burning.	do	28-19-45	do	do	Do.
Rodney Milling Co.:					
Wheat cleaning suction filter "D".	Topeka	28-19-50	do	do	Apr. 30, 1975
Milo mill suction	do	28-19-50	do	do	June 30, 1975
Yates Center Quarries, primary crushing and screening.	Iola	28-19-20	do	do	Mar. 28, 1975
Monarch Cement Co., kilns No. 1 and 2.	Humboldt	28-19-20	Mar. 22, 1974	do	June 1, 1974
Owens-Corning Fiberglas:					
J-5 oven	Kansas City	28-19-20	Mar. 18, 1974	do	Do.
J-6 oven	do	28-19-20	do	do	Do.
K-3 oven	do	28-19-20	do	do	Apr. 1, 1975
K-4 oven	do	28-19-20	do	do	Do.
Alfalfa, Inc.:					
Rotary dryer feed cyclone	Sublette	28-19-50	Feb. 14, 1974	do	Mar. 1, 1974
Hammer mill feed cyclone	do	28-19-50	do	do	Do.
Meal bin vent	do	28-19-50	do	do	Do.
Bohm Grain Co., grain cleaner	Osborne	28-19-20	do	do	Aug. 1, 1974
Smith Center Co-Op Mill & Elevator, elevator leg cyclone.	Smith Center	28-19-50	do	do	Mar. 11, 1974
Wade Agricultural Products, primary crusher and screening.	LeCygne	28-19-20	Jan. 14, 1974	do	Sept. 1, 1974
Buffalo Industry, Inc., cupola	Garden City	28-19-20	Apr. 25, 1974	do	July 31, 1975
Cargill, Inc., railcar unloading	Wichita	28-19-20	June 4, 1974	do	July 1, 1975
Central Non-Ferrous, Inc., chlorination process.	Fort Scott	28-19-20	May 30, 1974	do	June 1, 1975
Hi-Plains Cooperative Association, grain elevator.	Colby	28-19-50A	June 21, 1974	do	Mar. 1, 1975
Mesa Petroleum Co., safety relief flare.	Ulysses	28-19-45	May 2, 1974	do	July 31, 1975
National Gypsum Co. (Gold Bond products), rotary calciners No. 1 and No. 2.	Medicine Lodge	28-19-20	June 21, 1974	do	June 1, 1975
Smith Center Co-Op Mill & elevator, grain elevator.	Smith Center	28-19-50	do	do	Mar. 1, 1975
McPherson County Highway Department, hot mix asphalt plant.	McPherson	28-19-20	Sept. 19, 1974	do	Nov. 1, 1974
A. G. Sherwood Construction Co., hot mix asphalt plant.	Independence	28-19-50A	do	do	Do.
Archer Daniels Midland Co., grain dryer transfer.	Fredonia	28-19-50A	do	do	Apr. 28, 1975
Cargill Salt Department, rotary salt dryer.	Hutchinson	28-19-50	do	do	Mar. 1, 1975
C. K. Processing Co., alfalfa dehydrator.	Manhattan	28-19-20	Oct. 8, 1974	do	July 31, 1975
Sherwin-Williams Chemicals, zinc oxide dryer.	Coffeyville	28-19-50B	do	do	May 1, 1975
Westhoff Bros. Asphalt & Sand Co., wet washer dust collector.	Great Bend	28-19-50A	do	do	Dec. 1, 1974
C. E. Industrial Group, incinerator	Concordia	28-19-50B	Mar. 18, 1974	do	May 24, 1974
Gorham Farmers Coop Association, grain cleaner.	Gorham	28-19-20	Jan. 22, 1974	do	Aug. 1, 1974
Jamestown Cooperative:					
Cyclone dust collector	Jamestown	28-19-50	do	do	Mar. 1, 1974
Receiving pit	do	28-19-50	do	do	Do.
Mid-America Pipeline, flaring system.	Conway	28-19-47C	do	do	June 1, 1974
Ulysses Cooperative Oil & Supply Co., hammer mill.	Ulysses	28-19-50	Feb. 7, 1974	do	Apr. 1, 1974
Udall Farmers Union Co-op Association, grain cleaner.	Udall	28-19-20	Feb. 21, 1974	do	Sept. 1, 1974
Western Alfalfa, alfalfa dehydrator	Belle Plaine	28-19-20	Feb. 5, 1974	do	July 31, 1975
Do	Garden City	28-19-20	do	do	Do.
Do	Larned	28-19-20	do	do	Do.
Do	Oxford	28-19-20	do	do	Do.
Do	Peterson	28-19-20	do	do	Do.
Coffeyville Memorial Hospital, incinerator.	Coffeyville	28-19-40	Mar. 18, 1974	do	Oct. 1, 1974
Bayer Construction Co., rock crusher No. 1.	Manhattan	28-19-20	Aug. 15, 1974	do	Sept. 1, 1974

Source	Location	Regulation involved	Date adopted	Effective date	Final compliance date
*	*	*	*	*	*
Certain-Teed Products Corp.:					
K-0 precipitator	Kansas City	28-19-50	Aug. 26, 1974	do	Dec. 31, 1974
K-6 forming	do	28-19-20	Mar. 18, 1974	do	July 31, 1975
K-0 furnace	do	28-19-20	Oct. 4, 1973	do	Dec. 1, 1974
K-1, K-5, K-6, K-7 furnaces	do	28-19-20	May 13, 1974	do	July 31, 1975
K-5 forming	do	28-19-20	do	do	Do.
K-1 coring	do	28-19-20	do	do	Do.
K-2 coring	do	28-19-20	do	do	Do.
Collingwood Grain, Inc., elevator headhouse.	Hutchinson	28-19-50	Aug. 15, 1974	do	Mar. 15, 1975
Collingwood Grain, Inc., ebst elevator headhouse.	Copeland	28-19-50	Feb. 14, 1974	do	Mar. 1, 1974
Garvey Elevators, Inc.:					
Grain cleaner	Wichita	28-19-20	June 19, 1974	do	Oct. 1, 1974
Conveying system	do	28-19-20	do	do	Do.
County Hospital No. 5, incinerator	Harper	28-19-41B	July 9, 1974	do	Sept. 1, 1974
Jayhawker Towers Apartments, incinerator.	Lawrence	28-19-41	Sept. 5, 1974	do	Nov. 1, 1974
Service Iron Foundry, Inc., cupola	Wichita	28-19-20 28-19-50	Aug. 15, 1974	do	Mar. 1, 1975
Sylvia Cooperative Association, grain cleaner.	Sylvia	28-19-20	Aug. 26, 1974	do	Nov. 1, 1974

* * * * * * *

(2) The compliance schedules identified below are disapproved as not meeting the requirements of § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State, unless otherwise noted.

KANSAS

Source	Location	Regulation involved	Date adopted
*	*	*	*
Kansas City Power & Light, coal transfer houses	LaCygne	28-19-50	Nov. 22, 1974
Pence Food Center, incinerator	Chanute	28-19-40	Do.
Rodney Milling Co.:			
"A" house gallery and tunnel system	Topeka	28-19-50	Do.
"B" & "C" house gallery	do	28-19-50	Do.
Western Alfalfa Corp., alfalfa dehydrater	Deerfield	28-19-20	Do.
Do	Tice	28-19-20	Do.
Pence Food Center, incinerator	Humboldt	28-19-40	Do.
Sherwin-Williams Chemicals, Ozark P.M. Mill	Coffeyville	28-19-50B	Oct. 8, 1974
Continental Grain Co., rail car loading	Hutchinson	28-19-50	Aug. 15, 1974
Far-Mar-Co, Inc., headhouse cyclones	Topeka	28-19-50	Sept. 5, 1974
Do	Hutchinson	28-19-50	Aug. 15, 1974
Western Iron & Foundry, cupola	Wichita	28-19-20A 28-19-50A	Oct. 4, 1974

[FR Doc.75-4931 Filed 2-25-75;8:45 am]

[40 CFR Part 52]

[FRL 337-6]

COMMONWEALTH OF MASSACHUSETTS

Approval and Promulgation of State Implementation Plans

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act and 40 CFR 52, the Administrator approved with exceptions the Massachusetts Implementation Plan for attainment of national ambient air quality standards. Included in this approval were the Regulations for the Control of Air Pollution in the six Massachusetts Air Pollution Control Districts. Regulation 50—Variances thereof, as originally submitted was disapproved by EPA on July 16, 1973 (38 FR 18879) and EPA substituted a new regulation for it, 40 CFR 52.1131, (38 FR 18880). On November 14, 1974 the Massachusetts Governor, Francis W. Sargent, submitted for EPA approval a proposed revision to Regulation 50. This new revision is to take the the place of that promulgated by the Environmental Protection Agency. The Administrator hereby issues this notice setting forth the Massachusetts submittal as proposed rulemaking and advises the public that comments may be submitted as to whether it meets the requirements of section 110(a)(2)(A–H) of the Clean Air Act and EPA regulations in 40 CFR Part 51.

Prior to this amendment, a variance for one year could be granted freely, or upon application, to any person as deemed necessary for the public good or to allay hardships.

The proposed change would list specific criteria which must be met by the applicant, before the variance could be granted for the period prescribed by the Federal law.

The amended variance regulation would require the applicant to have made good faith efforts to comply with the Regulations prior to the variance petition. Variances may then be granted under this proposal if the department finds that (a) compliance or enforcement of the regulation is impractical due to lack of technology, (b) compliance is impossible due to unavoidable delays in obtaining control equipment, (c) compliance is interfered with due to acts of nature, or (d) when the benefits anticipated would be substantially outweighed by the cost to the applicant and to the public and granting the variance would not have a significantly deleterious effect on public health. Variances granted may not extend beyond May 31, 1975 and are subject to approval by the Administrator of EPA.

Copies of the Massachusetts submission are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, J.F.K. Federal Building, Room 2113, Boston, Massachusetts 02203; the Commonwealth of Massachusetts, Department of Public Health, Division of Environmental Health, Bureau of Air Quality Control, Room 320, 600 Washington Street, Boston, Massachusetts 02111; Board of Health Office, Pittsfield, Massachusetts, Central Massachusetts Air Pollution Control District, 75B Grove Street, Worcester, Massachusetts; Merrimack Valley Air Pollution Control District, Tewksbury State Hospital, Regional Health Office, Tewksbury, Massachusetts, Pioneer Valley Air Pollution Control District, 1414 State Street, Springfield, Massachusetts; Southeastern Massachusetts Air Pollution Control District, Southeast Regional Health Office, Lakeville State Hospital, Lakeville, Massachusetts; and the Freedom of Information Center, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Regional Administrator, Environmental Protection Agency, Region I, J.F.K. Federal Bldg, Room 2113, Boston, Massachusetts 02203. Relevant comments received within 30 days of this notice will be considered. Receipt of comments will be acknowledged but substantive responses to individual comments will not be provided. Comments received will be available during normal working hours at the Region I office. All relevant matter presented shall be evaluated and the agency will incorporate in the rules adopted a concise general statement of their basis and purpose.

Authority: Sec. 110(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5(a).

Dated: February 18, 1975.

JOHN A. S. MCGLENNON,
Regional Administrator,
Environmental Protection Agency.

[FR Doc.75-5021 Filed 2-25-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

CRUDE OIL RUNS FOR OLD OIL ALLOCATION PROGRAM

Inclusion of Canadian Plant Condensate

The Federal Energy Administration hereby gives notice of a proposal to amend Part 211, Chapter II of Title 10, Code of Federal Regulations to permit inclusion of plant condensate imported from Canada in a refiner's crude oil runs to stills for purposes of the old oil allocation program. The plant condensate so imported is a natural gas liquid produced in Canadian gas processing plants.

Because Canadian plant condensate is not currently considered crude oil for purposes of calculating the volume of a refiner's crude oil runs to stills under the old oil allocation program, its price is effectively raised relative to imported crude oil which receives entitlements under the program when processed by a refiner. As a consequence of the present treatment of Canadian plant condensate under the program, nominations by United States refiners for purchases of the product have fallen significantly due to its higher effective cost. FEA has been advised that the volumes of unsold condensate will necessarily result in curtailments in the operations of Canadian gas plants, since the unsold volumes will within a short period of time exceed the capacity of their storage facilities. Furthermore, curtailments in the operations of Canadian gas plants will also cause a substantial decrease in Canadian natural gas production for export. FEA did not intend the structure of the program to have the effect of reducing deliveries of natural gas, which is already in short supply, with the resulting adverse impact on the regions of the United States which are dependent on Canadian natural gas.

For these reasons, FEA proposes to amend its regulations to provide that Canadian plant condensate constitutes an eligible component of a refiner's crude oil runs to stills for purposes of the old oil allocation program. Under the proposed amendment to § 211.67, the volume of a refiner's crude oil runs to stills would be increased by the volume of plant condensate imported from Canada which is processed by that refiner. In addition, a definition of "plant condensate" would be added in § 211.62. Plant condensate is defined as a natural gas liquid composed of mostly pentanes and heavier hydrocarbons, recovered and separated as a liquid at gas inlet separators or scrubbers in processing plants or field facilities and which is not suitable for blending with natural gasoline or refinery gasoline.

The proposed amendment, if adopted, would be effective with respect to volumes of Canadian plant condensate included in refiners' crude runs in the month of February 1975 and subsequent months.

As required by section 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 to offer in this regard.

A public hearing on this proceeding will be held beginning at 9:30 a.m. on March 12, 1975, Room 3000, FEA, 12th and Pennsylvania Avenue, NW., Washington, D.C., to receive comments from interested persons on the matters set forth herein. Any person who has an interest in the subject of the hearing, or who is a representative of a group or class of persons which has an interest in the subject of the hearing, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, Room 3309, FEA, and must be received before 4:30 p.m., e.s.t., March 5, 1975. Such a request may be hand delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted through March 11, 1975.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.s.t., March 7, 1975 and must submit 100 copies of his statement to Executive Communications, FEA, Room 3309, Federal Building, Washington, D.C. 20461, before 4:30 p.m., e.s.t., March 11, 1975.

The FEA reserves the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. Each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. It will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearing will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.s.t., March 10, 1975. Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by the FEA and made available for inspection at the Administrator's Reception Area, FEA, Room 3400, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Anyone may purchase a copy of the transcript from the reporter.

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed regulations set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box CH, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to the FEA, Executive Communications, with the designation "Canadian Plant Condensate". Fifteen copies should be submitted. All comments received by March 10, 1975 and all other relevant information will be considered by the FEA before final action is taken on the proposed regulations.

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 accordingly.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; 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 211, Chapter II of Title 10, Code of Federal Regulations, as set forth below.

Issued in Washington, D.C. on February 21, 1975.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

1. Section 211.62 is amended by adding a definition for "plant condensate" in the appropriate alphabetical order to read as follows:

§ 211.62 Definitions.

* * * * *

"Plant condensate" means a natural gas plant product, mostly pentanes and heavier hydrocarbons, recovered and separated as a liquid at gas inlet separators or scrubbers in processing plants or field facilities and which is not suitable for blending with natural gasoline or refinery gasoline.

* * * * *

2. Section 211.67 is amended by adding a new paragraph (d)(3) to read as follows:

§ 211.67 Allocation of Old Oil.

* * * * *

(d) *Adjustments to volume of crude oil runs to stills.*

* * * * *

(3) The volume of a refiner's crude oil runs to stills in a particular month for purposes of calculating its old oil supply ratio and the adjusted national old oil supply ratio shall include the total number of barrels of plant condensate imported from Canada which is utilized in that month as an input to distillation

units by a refiner, measured in accordance with the Bureau of Mines Form 6-1300-M.

[FR Doc.75-5157 Filed 2-24-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR—Parts 2, 91, 93, 95]

[Docket 20120]

CITIZENS RADIO SERVICE

Operating Rules for Class D Stations; Extending Time To File Reply Comments

1. Special Industrial Radio Service Association, Inc. (SIRSA) requests an extension of time until March 14, 1975, within which to file reply comments in the captioned matter. The closing date for reply comments is February 15, 1975.

2. The request is predicated on the inability of the parties to study nearly 400 pages of comments, background data and economic issues and effectively address the issues raised within the short time allotted by the notice of proposed rule making.

3. E. F. Johnson Company opposes any extension for filing reply comments. E. F. Johnson contends that sufficient time in which to file replies is automatically provided since, under the rules, where the reply filing date falls on a holiday or weekend (as here) replies may be filed up to and including the next business day. In this case that would be February 18, 1975. It further points to common issues of this proceeding and those of the Class E Citizens radio proposal in Docket 19759. It asserts that the Class E matter is scheduled for a Commission discussion during the week of March 2, 1975, and an extension beyond the filing period would deprive the Commission of the opportunity of simultaneously considering Dockets 20120 and 19759.

4. It appears that E. F. Johnson misunderstands the nature of the March meeting before the Commission. This meeting on the Class E Citizens proposal is scheduled to be a staff report on the status of the proceeding and a discussion applicable to policy formulation. It is not intended to be decisional in scope.

5. We believe a showing of good cause has been made for a grant of SIRSA's request for an extension of time in which to file reply comments. Since the additional time to prepare replies will not materially affect the interests of other known parties and should not unduly delay the Commission's action on the instant proposal, the request for extension of time in which to file reply comments will be granted.

6. Accordingly, *it is ordered*, Pursuant to section 5(d) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, that the date for filing reply comments in the above-entitled proceeding is extended to and including March 14, 1975.

Adopted: February 14, 1975.

Released: February 19, 1975.

[SEAL] CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special Radio Services Bureau.

[FR Doc.75-5113 Filed 2-25-75;8:45 am]

[47 CFR Part 31]

[Docket No. 20188; RM-2259]

UNIFORM SYSTEM OF ACCOUNTS

Class A and B Telephone Companies; Extension of Time

In the matter of amendment of Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies) so as to permit depreciable property to be placed in groups comprised of units with expected equal life for depreciation under the straight-line method.

1. The Commission has received by letter dated February 6, 1975, a copy of a January 21, 1975, letter from the New York Public Service Commission (New York Commission), the original of which the Commission has not received, requesting reconsideration of an order adopted on December 3, 1974, by the Chief, Common Carrier Bureau, granting in part, and denying in part, the New York Commission's October 25, 1974, request for an extension of time for the filing of comments in this proceeding. In its letter of October 25, the New York Commission requested that the time for filing comments in this proceeding be extended from January 20, 1975, to May 20, 1975. The Wisconsin Public Service Commission, in a letter dated November 22, 1974, also requested an extension of time for filing comments to May 20, 1975. In an order adopted on December 3 and released on December 5, 1974, by the Chief, Common Carrier Bureau, the time for filing comments and reply comments in this proceeding was extended from January 20 and March 20, 1975, respectively, to February 20 and April 21, 1975. In an Order adopted on January 8 and released on January 10, 1975, by the Chief, Common Carrier Bureau, a request dated December 23, 1974, by the NARUC Subcommittee of Staff Experts on Accounting (NARUC Subcommittee) for an extension of time to May 20, 1975, was denied except to the extent that it was granted, in part, by the Order adopted on December 3, 1974.

2. In its letter of January 21, 1975, the New York Commission reiterates the position stated in its earlier letter, viz., that the time for filing comments in this proceeding, even with the extension of time granted in our December 3, 1974, Order, does not allow sufficient time for its staff to make the examination it feels is necessary of the New York Telephone Company's engineering procedures for implementing Equal Life Group (ELG) depreciation. This matter was addressed in both our December 3, 1974, and January 8, 1975, orders, and there is nothing additional in this regard offered in the New York Commission's January 21, 1975, request to warrant a further extension of the time for filing comments in this proceeding. However, we have been advised that the American Telephone and Telegraph Company is planning on making a presentation to the NARUC Sub-Committee in early March with regard to the subcommittee's concern regarding potential difficulties in verifying ELG depreciation rate data should the procedures be accepted by this Commission and made a part of our accounting Rules. To the extent, therefore, that certain additional material or information in this matter may be made available to members of the NARUC Subcommittee at that time, a further extension of time for filing comments in this proceeding beyond the date of the subcommitte's meeting appears justified in order to provide additional time for review of such data.

3. Accordingly, *it is ordered*, Pursuant to authority delegated by § 0.303(c) of the Commission's rules, that the time for filing comments in the above captioned proceeding is hereby further extended to March 24, 1975, and the time for filing reply comments is hereby further extended to May 26, 1975. In granting this further extension of time, we believe sufficient time has been made available to all interested persons within which to file their comments. We, therefore, urge all interested persons to take appropriate steps to file their comments within the time periods established in this proceeding.

Adopted: February 13, 1975.

Released: February 19, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.75-5114 Filed 2-25-75;8:45 am]

[47 CFR Part 73]

[Docket No. 20358; RM-2266]

FM BROADCAST STATIONS, TENNESSEE

Table of Assignments

1. On October 3, 1973, Sam C. Phillips (Phillips) filed a petition proposing the assignment of FM Channel 232A to Germantown, Tennessee. Germantown (population 3,474),[1] incorporated in 1912, is located in Shelby County (population 722,014) on U.S. Highway 72, adjacent to the eastern city limits of Memphis, Tennessee, and is a part of the Memphis Urbanized Area. Channel 232A could be assigned to Germantown in conformance with the Commission's minimum mileage separation rule and without affecting any other FM assignment in the FM Table of Assignments. Germantown has no local broadcast transmission service.

2. In support of the petition, Phillips submitted information and data with respect to Germantown, e.g. population,

education, industry, employment and income, the form of government, and facilities. In addition, Phillips submitted statements from 35 Germantown city officials, civic leaders, business and professional men, and average residents regarding the growth of the community and the need for a first local transmission service. The petitioner also submitted population density and growth figures from a 1973 study report by Allen and Hoshall, consulting engineers, Memphis. This report indicates that Germantown's population has increased 214.7 percent between 1960 and 1970 (from 1,104 to 3,474 population). Germantown is located within the service contours of many Memphis stations. However, Phillips states that Germantown has a separate economic viability and public community interest that can be aided by assignment of the facility requested.

3. The petitioner avers that the proposed assignment would cause no preclusions on the six adjacent channels. However, we are told that assignment of Channel 232A would be precluded in a roughly rectangular area approximately 48 miles in an east-west direction and approximately 22 miles in a north-south direction including within it the city of Memphis. However, the channel cannot be utilized as a Memphis assignment because of the large area covered by Memphis. Phillips indicates that the proposed assignment operating with a transmitter site in the vicinity of Germantown would serve more than one-half of this precluded area. A staff study shows that West Memphis, Arkansas (population 25,892) with only a daytime-only station (KSUD) is located in the preclusion area. Since the proposed assignment would foreclose its usage at West Memphis, petitioner should indicate whether any other channels are available for assignment there.

4. We believe that petitioner has made a sufficient public interest showing to warrant issuance of a notice of proposed rule making.

5. Accordingly, pursuant to authority contained in sections 4(i), 303 and 307 (b) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations, it is proposed to amend § 73.202 (b) of the Commission's rules and regulations, the FM Table of Assignments as follows:

City	Channel No.	
	Present	Proposed
Germantown, Tenn.		232A

6. *Showings required.* Comments are invited on the proposal discussed and set forth above. The proponent of the proposed assignment is expected to file comments that are responsive to all questions raised by this Notice. The proponent should also restate his present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

7. *Cut-off procedure.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this notice, they will be considered as comments in this proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before April 11, 1975, and reply comments on or before April 30, 1975. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments must be served on the petitioner. Reply comments must be served on the person(s) who filed the comments to which the reply is directed.

9. In accordance with the provisions of § 1.419 of the rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

Adopted: February 12, 1975.

Released: February 20, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-5117 Filed 2-25-75;8:45 am]

[1] All population figures are from the 1970 U.S. Census, unless otherwise indicated.

[47 CFR Part 73]

TELEVISION BROADCAST STATIONS IN CALIFORNIA

[Docket No. 20361, RM-2408]

Table of Assignments

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the petition for rule making filed by the Associates for Creative Enterprise in Media (ACE Media) requesting the amendment of § 73.606(b) of the Commission's rules and regulations, proposing the assignment of Channel 35 to Salinas-Monterey, California. Presently assigned to Salinas-Monterey are Channels 8, 46, *56 and 67.

2. Salinas (pop. 58,896) [1] is the largest city in Monterey County (pop. 250,071). Monterey (pop. 26,302) is the third largest city in that county. Neighboring communities, including Seaside (pop. 35,935), Pacific Grove (pop. 13,505) and Carmel-by-the-Sea (pop. 4,525), comprise the Salinas-Monterey standard metropolitan statistical area (pop. 139,163).

3. Currently the Salinas-Monterey area is served by two local commercial television stations—KMST, Channel 46, a CBS affiliate, and KSBW, Channel 8, an NBC affiliate. (An application for use of Channel 67 is pending (BPET-464).) Additional direct broadcast commercial service is offered to part of the area by KNTV, Channel 11, San Jose, an ABC affiliate. Television translator Station K56AA, operated by the Monterey County Office of Education, uses Channel *56 to rebroadcast signals originated by KTEH, Channel *54, San Jose. Supplemental indirect service is provided by KGSC-TV, Channel 36, San Jose, which operates translator Station K29AB, Salinas-Monterey. Other services are provided by CATV systems which import signals from San Francisco, Oakland, San Jose, and other localities. Two local newspapers are available to Salinas-Monterey residents.

4. Petitioner has compiled a program typology by surveying and monitoring stations for certain hours during a thirty-day period. The results demonstrate that during approximately 68 percent of the aggregate of those hours viewers watched network or syndicated entertainment. Petitioner emphasized in its analysis that minority group oriented programming, provided by one station, comprised only 0.14 percent of the total viewing hours. It was also noted that 21 percent of the Salinas-Monterey residents were Spanish speaking or Spanish surname individuals and 20.45 percent of the contiguous community of Seaside are listed as Black. Petitioner cited these figures to support its allegation that there is a deficiency of minority-oriented programming and expressed an intent to serve the needs of minority groups.

5. Petitioner states that it intends to apply for a construction permit if the proposed assignment is made and if granted, will promptly begin to construct a station.

6. With respect to the technical feasibility of the proposed assignment, existing TV assignments will not be affected. However, opposition is noted by the Continental Urban TV Corporation, licensee of Station KGSC-TV, Channel 36, San Jose, California. It complains that its translator station, K29AB, serving part of the Salinas-Monterey area, will be unable to effectively operate due to interference to reception of the signal of its primary station caused by the proposed assignment of Channel 35 to the Salinas-Monterey area.

[1] All population figures are from the 1970 Census unless otherwise specified.

7. Alleged interference to the operation of translator stations is of relatively minor consequence in considering TV channel assignments. It is Commission policy, as expressed in § 74.702(c)(3) of the Commission's rules and regulations, that ". . . [c]hanges in the Television Table of Assignments (§ 73.606(b) of this chapter) may be made without regard to existing or proposed television broadcast translator stations. . .". Thus, new assignments of TV channels may be made irrespective of interference to an existing translator station, with the translator operator having the burden of making necessary adjustments. In the present case, operation of the proposed Channel 35 at Salinas-Monterey (if the channel is assigned as proposed) would have the potential of serving an area of 15,000 square miles, while the translator in that community can serve only a limited area. In connection with the alleged interference to reception by the translator of the signal of its parent station, the extent of such interference, if it occurs, could not be determined until such time as a transmitter for the use of the proposed Channel 35 assignment is made known. Various methods do exist for correcting interference problems in many cases.

8. In view of the above, 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 § 0.281(b)(6) of the Commission's rules and regulations, it is Proposed to Amend § 73.606(b) of the Commission's rules and regulations, the TV Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Salinas-Monterey, Calif.....	8+, 46−, *56, 67−	8+, 35−, 46−, *56, 67−

9. *Showings required.* Comments are invited on the proposal discussed above. In initial comments, proponent will be expected to answer whatever questions are presented herein. The proponent of the proposed assignment is expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

10. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

11. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments on or before April 11, 1975, and reply comments on or before April 30, 1975. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

12. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

13. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

Adopted: February 14, 1975.

Released: February 25, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-5115 Filed 2-25-75;8:45 am]

[47 CFR—Part 73]

[Docket No. 20357 RM-2379]

TELEVISION BROADCAST STATIONS, WASHINGTON

Table of Assignments

1. Notice of proposed rule making is hereby given concerning proposed amendment of § 73.606(b) of the Commission's rules and regulations, the Television Table of Assignments, to delete Channel 24 from Bellingham, Washington, and reassign it to Anacortes, Washington.

2. Anacortes (pop. 7,701),[1] located in northwest Washington on Fidalgo Island, is the second largest city in Skagit County (pop. 52,381). We are told that it is an important seaport, handling commercial and ferry traffic from Vancouver Island (British Columbia) and that it has a firm industrial base consisting of petroleum refining, fisheries and lumber and plywood manufacture. The petitioner, Ceorl Corporation, indicates that economy of Skagit County will be enhanced in the near future due to recent zoning and planning approval for a new nuclear plant and the zoning of 120 acres of land for industrial purposes with the hope that it will become a new industrial park.

3. Bellingham (pop. 39,375) from which the petitioner proposes to delete Channel 24, is located eighteen miles north-northeast of Anacortes. The petitioner states that it intends to locate its antenna on Erie Mountain in Anacortes and, from that location, provide service to the western portion of Skagit County (which would include the communities of Mt. Vernon, pop. 8,804; Burlington, pop. 3,133; and Sedro-Wooley, pop. 4,593) and San Juan (pop. 3,856) and Island (pop. 27,011) counties. The petitioner avers that the eastern portion of Skagit County, which it does not propose to serve, is timberland, mountainous and sparsely populated. Although not stated, it appears that the proposed assignment would also provide service to Bellingham.

4. The petitioner states that the more than 65,000 persons who would be served by the proposed assignment are presently within the Grade A contour of only one television station (KVOS–TV, Bellingham) and are on the fringe of Grade B contours of three commercial television stations (KOMO–TV, KING–TV, Seattle; KSTW, Tacoma) and an educational station (KCTS–TV), Seattle). It further states that this proposal is in the public interest because it would provide a first local television service. It should be noted that deletion of Channel 24 from Bellingham would still leave Bellingham with two unoccupied television assignments, one commercial and one noncommercial educational, as well as operating Station KVOS–TV. As such it would appear that the petitioner has made a sufficient public interest showing to merit further consideration of its proposal in a rule making proceeding.

5. Anacortes is located within 250 miles of the U.S.-Canadian border. Therefore, under the Canadian-United States Television Agreement, the proposed amendment requires the consent of the Canadian government. This consent has been obtained.

6. Accordingly, pursuant to authority contained in sections 4(i), 303 and 307(b) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations, it is proposed to amend § 73.606(b) of the Commission's rules, the Television Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Anacortes, Wash.....		24
Bellingham, Wash.....	12+, 24, *34, 64	12+, *34, 64

[1] All population figures are from the 1970 U.S. Census.

7. *Showings required.* Comments are invited on the proposals discussed and set forth above. The proponent of the proposed assignment is expected to file comments even if it only resubmits or incorporates by reference its former pleadings. The proponent should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

8. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d).)

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in this proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed after that date, they will not be considered in connection with the decision herein.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before April 11, 1975, and reply comments on or before April 30, 1975. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments must be served on the petitioner. Reply comments must be served on the person(s) who filed the comments to which the reply is directed.

10. In accordance with the provisions of § 1.419 of the rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street NW., Washington, D.C.

Adopted: February 12, 1975.

Released: February 20, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-5116 Filed 2-25-75;8:45 am]

[47 CFR Parts 81, 83]

[Docket No. 20355]

CLASS II PUBLIC COAST STATION

Ship to Shore Communications

In the matter of amendment of Parts 81 and 83 of the Commission's rules to provide for a Class II Public Coast Station in the vicinity of Agana, Guam.

1. Notice of proposed rule making in the above-entitled matter is hereby given.

2. This proposal is being issued as a result of an application for a Class II Public Coast Station at Agana, Guam, from the Marianas Telephone Company. The petitioner's application, in effect, requests that the Commission's rules be amended so as to make available for assignment a pair of frequencies for public ship-shore communications in the vicinity of Agana, Guam.

3. The applicant states that there is presently no public ship-shore communications available in the vicinity of Guam and that such service is urgently needed in the area as the nearest U.S. authorized Class II Public Coast Station is located in Honolulu, Hawaii, which cannot serve the needs of the local boating public.

4. It is proposed that the coast station carrier frequency 2506 kHz and the ship carrier frequency 2009 kHz be assigned for Class II Public Coast service at Agana, Guam.

5. It is believed that the proposed rule amendment would provide for more effective utilization of maritime frequencies in the public interest in that it would make a frequency pair available for direct service to an area which apparently is not now adequately served under the present frequency plan.

6. The proposed amendment, as set forth below, is issued pursuant to the authority contained in sections 4(i) and 303 (c), (d), (f), and (r) of the Communications Act of 1934, as amended.

7. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before April 1, 1975, and reply comments on or before April 11, 1975. Section 1.419 of the rules requires the original and fourteen (14) copies of comments or reply comments to be filed. Comments and reply comments received in response to this notice of proposed rule making will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

Adopted: February 11, 1975.

Released: February 24, 1975.

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

Parts 81 and 83 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

A. The table in § 81.306(b) is amended by the addition of the following new location and frequencies before the entry for Boston, Massachusetts:

§ 81.306 Frequencies available below 27.5 MHz.

* * * * *

Agana, Guam	2,506	5	2,009	5

* * * * * *

B. The Table in § 83.354(b) is amended by the addition of the following new location and frequencies before the entry for Boston, Massachusetts.

§ 83.354 Frequencies below 5000 kHz for public correspondence.

* * * * *

Agana, Guam	2,009	5	2,506	5

* * * * *

[FR Doc.75-5118 Filed 2-25-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Fiscal Service

BUREAU OF THE PUBLIC DEBT

Public Notice of Closing of the Chicago Office

Public notice is hereby given that all functions of the Chicago Office of the Bureau of the Public Debt, located at 536 South Clark Street, Chicago, Illinois, have been transferred to the Bureau's Savings Bonds Operations Office at Parkersburg, West Virginia. Its address is: Bureau of the Public Debt, 200 Third Street, Parkersburg, West Virginia 26101. The Chicago Office will be officially closed as of February 28, 1975.

Dated: February 21, 1975.

H. J. HINTGEN,
Commissioner of the Public Debt.

[FR Doc.75-5098 Filed 2-25-75;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON NAVAL SURFACE WARFARE

Meeting

A Defense Science Board Task Force on "Naval Surface Warfare" will meet in closed session on March 24–25, 1975 at the Pentagon, Arlington, Virginia.

The mission of this Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering regarding the adequacy and directions of U.S. programs in surface offensive operations in the face of continuing increases in Soviet capabilities in naval weapons, command and control, and out-of-area operations.

The Task Force will concentrate first on U.S. programs in tactical surface surveillance, targeting, command and control, and weaponry for surface engagement to help assure that our R&D investments yield the greatest improvement in our total force capabilities, when deployed in quantities we can afford.

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

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

FEBRUARY 21, 1975.

[FR Doc.75-5067 Filed 2-25-75;8:45 am]

DEFENSE SCIENCE BOARD TASK FORCE ON "TRAINING TECHNOLOGY"

Advisory Committee Meeting

Pursuant to the provisions of Pub. L. 92-463, notice is hereby given that the Defense Science Board Task Force on "Training Technology" will meet in open session on 17 March 1975 at the Institute for Defense Analyses, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an evaluation of the current effectiveness of DoD programs and management in the R&D area of Training Technology to serve as the basis for DoD policy decisions to reduce costs and increase effectiveness and efficiency of DoD Training.

At this meeting, a presentation will be given by Mr. Ray Fox and others of the National Security Industrial Association, on Industry Views on Training Technology.

Due to limited time and space availability, it is requested that persons interested in attending the DSB Task Force meeting provide written notice to the address listed below by March 13, 1975. Notices should include information with respect to interest and degree of participation.

Lt. Col. Henry L. Taylor, Executive Secretary, DSB Task Force on Training Technology, ODDR&E, Room 3D129, Pentagon, Washington, D.C. 20301.

Telephone inquiries may also be made to Lt. Col. Taylor at (202) 695-9777.

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

FEBRUARY 24, 1975.

[FR Doc.75-5179 Filed 2-25-75;8:45 am]

DEPARTMENT OF THE INTERIOR

[INT DES 75-2]

Bureau of Indian Affairs

CROW RESERVATION AND CEDED AREA

Coal Development; Availability of Draft Environmental Statement

The date for receiving comments on the Department of the Interior's environmental programmatic statement which projects the anticipated environmental impacts of coal development on the Crow Reservation and Ceded Area has been extended to March 31, 1975.

The notice of availability appearing in Volume 40, Number 14 of the FEDERAL REGISTER dated January 21, 1975 established the closing date of March 10, 1975 for receipt of comments.

Dated: February 21, 1975.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75-5100 Filed 2-25-75;8:45 am]

CROW INDIAN RESERVATION DRAFT ENVIRONMENTAL STATEMENT

Revision of Public Hearing Date on Projected Coal Development

The public hearing for receiving public comments regarding the Department of the Interior's Draft Programmatic Environmental Statement has been changed to 10 a.m. March 26, 1975 at the Crow Tribal Headquarters, Crow Agency, Montana.

The notice of public hearing setting the initial hearing date of February 26, 1975 appeared in Volume 40, Number 14 of the FEDERAL REGISTER dated January 21, 1975.

Dated: February 21, 1975.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75-5101 Filed 2-25-75;8:45 am]

Bureau of Land Management

[M-30915]

MONTANA

Application

FEBRUARY 18, 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), Montana-Dakota Utilities Company has applied for a 4 inch natural gas pipeline right of way across the following lands:

PRINCIPAL MERIDIAN, MONTANA

T. 2 N., R. 45 E.,
Sec. 34, NE¼NE¼.

This pipeline will convey natural gas across 0.299 miles of national resource lands in Custer County, Montana.

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 names and address to the District Manager, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

DONALD W. WIRTH,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-5046 Filed 2-25-75;8:45 am]

[NM 24520]

NEW MEXICO

Application

FEBRUARY 18, 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 a dehydration site right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 25 S., R. 29 E.,
Sec. 25, NE¼NW¼.

This 5-acre site is necessary to maintain and operate natural gas pipeline on national resource lands 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, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-5045 Filed 2-25-75;8:45 am]

[NM 24518, 24519, 24564, 24566]

NEW MEXICO

Notice of Applications

FEBRUARY 18, 1975.

Notice is hereby given that, pursuant to section 28 of the Mieral 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 seven 4½-inch natural gas pipelines rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 23 S., R. 26 E.,
Sec. 20, NE¼NE¼, S½NE¼.
T. 20 S., R. 28 E.,
Sec. 15 SW¼NE¼, SE¼SW¼, W½SE¼.
T. 21 S., R. 29 E.
Sec. 5, lots 10, 11, 12, 14, 15;
Sec. 6, lot 9.
T. 19 S., R. 34 E.,
Sec. 8, SE¼NE¼;
Sec. 9, S½N½.

These pipelines will convey natural gas across 3.358 miles of national resource lands in Eddy and Lea 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, P.O. Box 1397, Roswell, NM 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.75-5044 Filed 2-25-75;8:45 am]

Fish and Wildlife Service

WATERFOWL ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name: Waterfowl Advisory Committee.
Date: March 16, 1975.
Place: Ballroom 3, Pittsburgh Hilton Hotel, Gateway Center, Pittsburgh, Pennsylvania 15230.
Time: 4 p.m.
Purpose of meeting: The Committee will discuss selected waterfowl management issues, including shooting hours.

This meeting will be open to the public. Persons wishing to attend should notify the Director, United States Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, or call AC 202-343-8827. Statements of interested persons other than Committee members must be filed in writing with the Director before or after the meeting. To the extent time permits, the chairman of the meeting will accept brief oral statements from the public at the close of the Committee's agenda providing such statements are also submitted in writing before or after the meeting.

LYNN A. GREENWALT,
Director, United States Fish and Wildlife Service.

FEBRUARY 21, 1975.

[FR Doc.75-5104 Filed 2-25-75;8:45 am]

Office of Hearings and Appeals

[Docket No. M75-83]

BELL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Bell Company has filed a petition to modify the application of 30 CFR 77.1605(k) to its No. 4 and No. 5 mines, Arjay, Kentucky.

30 CFR 77.1605(k) provides:

Berms or guards shall be provided on the outer bank of elevated roadways. Petitioner's alternate method is as follows:

1. A daily inspection of all coal-hauling vehicles shall be made and any defects detected shall be corrected before the vehicle is put into service. A record of the inspection shall be kept and maintained by a supervisory employee.

2. Roadway surfaces shall be kept free of debris, excessive water, snow and ice, and maintained as free as practicable of small ditches (washboard effects).

3. A traffic system shall be put into use for these roads requiring that loaded vehicles have the right-of-way on the highwall side of roads regardless of their direction of travel.

4. Warning signs shall be posted designating curves, steep grades where trucks should shift to a lower gear, and where roadways are reduced to one-lane traffic. Stop signs shall be posted where one road intersects another, giving main haulage road traffic the right-of-way. Signs shall also be posted designating passing points.

5. All equipment operators shall be trained in the use of haulage equipment and the safety of vehicles on haulage roads.

6. All haulage vehicles shall have:
(a) Original manufacturers brakes.
(b) Engine or Jacobs brakes.
(c) Emergency (parking) braking system.

7. Adequate supplies of crushed stone or other suitable materials shall be stored at strategic locations along the haulage roads for use when the road surface becomes slippery.

8. A minimum width of 30 feet shall be provided and maintained. Where widths of less than 30 feet are provided and maintained, the roads shall be designated as single-lane roads.

9. On roads that afford only one traffic lane, a minimum width of 16 feet shall be maintained, with passing points provided at intervals of not more than 1,000 feet.

10. Where abrupt drop-offs are present along the outer banks, super elevation shall be provided to cause the vehicles to gravitate toward the highwall side of the road.

11. All rules of the road (traffic system) shall be posted on the bulletin boards throughout the mine area, and such rules of the road shall be made part of the training and retraining programs.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

FEBRUARY 19, 1975.

[FR Doc.75-5043 Filed 2-25-75;8:45 am]

[Docket No. M 74-130]

ISLAND CREEK COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. Section 861(c) (1970), Island Creek Coal Company has filed a petition[1] to modify the application of 30 CFR 75.1405 to its Providence Mine located in Providence, Kentucky, and the following mines located in Madisonville, Kentucky:

Crescent Mine
No. 9 Mine
Hamilton #1 Mine
Ohio #11 Mine
Hamilton #2 Mine

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970. Petitioner seeks to amend its petition as follows:

1. All statements made in Petitioner's original petition for modification filed April 17, 1974, and all statements made in Petitioner's amended petition filed August 23, 1974, with the Office of Hearings and Appeals are hereby reaffirmed and restated, as if recited verbatim herein.

2. Petitioner states that the alternate type of coupling device noted in its amended petition is a semi-automatic type coupler consisting of frame-mounted metal coupling devices with a bar mechanism for placement of the coupling pin which allows the operator to couple and uncouple the cars without positioning himself between cars. The bar mechanism has the further capability of being locked in the open position to allow the operator to maneuver a battery tractor into coupling position while remaining in the tractor seat. The particular design of the coupler allows coupling to be perfected without complications or danger to any person even at a wide angle from the center point and also allows considerable movement (not found in automatic-type couplers) necessary to compensate for unlevel track and mine floor, curves, and off-track operation. There will be no necessity of manual movement of coupling parts, other than the external bar-lever apparatus. (See attached drawing.)[2]

3. Petitioner states that the alternate type of coupling system will at all times guarantee no less than the same measure of protection afforded the miners at the subject mines by application of the mandatory standard, and because of the specific circumstances encountered in the subject mines will actually provide a greater measure of protection than the mandatory standard.

4. Petitioner further states that the use of automatic coupling devices in the subject mines would create safety hazards which are a factor in neither the currently used coupling system nor in the alternate system hereinabove mentioned.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before March 28, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

[FR Doc.75-5042 Filed 2-25-75;8:45 am]

[1] The original petition was published in 39 FR 8673 on May 29, 1974.

[2] The drawing referred to as attached to the petition will be available for inspection at the address mentioned in the last paragraph of the notice.

Office of Hearings and Appeals

[Docket No. 75-85]

YOUGHIOGHENY AND OHIO COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Youghiogheny and Ohio Coal Company has filed a petition to modify the application of 30 CFR 75.1701 to its Nelms No. 1 Mine, Martins Ferry, Ohio.

30 CFR 75.1701 provides:

Whenever any working place approaches within 50 feet of abandoned areas in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within 200 feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled a distance of at least 20 feet in advance of the working face of such working place and shall be continually maintained to a distance of at least 10 feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing working face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled not more than 8 feet apart in the rib of such working place to a distance of at least 20 feet and at an angle of 45 degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of miners in such place.

1. Petitioner's alternate method calls for drilling 35-foot deep holes at a 30 degree angle to the rib at intervals of 20 feet.

2. The alternate method provides certain safety advantages over the application of the mandatory safety standard. Whereas test holes required by § 75.1701 assure protection to a point 14.14 feet from the gob-side rib and 6.41 feet in advance of where the face will be when the cut is completed, the alternative test holes assure protection 17.5 feet from the gob-side rib and 10.31 feet in advance of where a 20-foot continuous miner cut will be completed.

3. The proposed alternate method will at all times provide no less than the same measure of protection afforded by the application of the mandatory safety standard.

Persons interested in this petition may request a hearing on the petition for furnish comments on or before March 28, 1975. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director,
Office of Hearings and Appeals.

FEBRUARY 19, 1975.

[FR Doc.75-5032 Filed 2-25-75;8:45 a.m.]

Office of the Secretary

NATIONAL PETROLEUM COUNCIL

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

The Industrial Task Group of the Committee on Energy Conservation will meet on March 13, 1975, in the offices of the National Petroleum Council, 1625 K Street NW., Washington, D.C., starting at 9:30 a.m. The agenda includes the following items:

1. Review task group members' progress on the Phase II report on energy conservation.
2. Discuss the Coordinating Subcommittee's/Consumer Task Group's input regarding Phase II.
3. Discuss any other matters pertinent to the overall assignment of the Task Group.

The meeting will be open to the public to the extent that space and facilities permit. Any member of the public may file a written statement with the Council either before or after the meeting. Interested persons who wish to speak at the meeting must apply to the Council and obtain approval in accordance with its established procedure.

The purpose of the National Petroleum Council is to provide advice, information and recommendations to the Secretary of the Interior, upon request, on any matter relating to petroleum or the petroleum industry.

Further information with respect to this meeting may be obtained from Ben Tafoya, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior, Washington, D.C., telephone number 343-7976.

Dated: February 21, 1975.

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

[FR Doc.75-5141 Filed 2-25-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

NATIONAL PEANUT ADVISORY COMMITTEE

Renewal

Notice is hereby given that the Secretary of Agriculture has renewed the National Peanut Advisory Committee for the purpose of advising the Secretary and other officials on domestic and export requirements for peanuts, production adjustments, and stabilization programs, and other matters relating to this commodity. The Secretary has determined that renewal of this committee is in the public interest in connection with the duties imposed on the Department by law.

The chairman of this committee is the Assistant Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Washington, D.C. 20250.

This notice is given in compliance with Pub. L. 92–463.

Signed at Washington, D.C. on February 21, 1975.

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

[FR Doc.75–5078 Filed 2–25–75;8:45 am]

PROPOSED RICE ACT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Agricultural Stabilization and Conservation Service, Department of Agriculture, has prepared a draft environmental statement on the proposed Rice Act. While the draft environmental statement was prepared in connection with H.R. 15263 which failed of passage in the 93rd Congress, it is also applicable to H.R. 201 introduced in the new Congress. The proposed legislation would provide authority for a program relating to the production and marketing of rice for the 1975 through 1977 crops.

The impact of this commodity on the environment is limited and the proposed program is not anticipated to substantially change the effect. There are, however, some environmental effects associated with the crop that are inescapable under any type of agricultural commodity program. This commodity is almost totally grown on irrigated farms and as with other crops, fertilizers, herbicides, pesticides, etc., are a necessary part of production practices.

The draft statement was filed with the CEQ on December 11, 1974. Copies of the statement are being forwarded to all State Clearinghouses in the major Rice Producing States of Arkansas, California, Louisiana, Mississippi and Texas, various conservation and environmental organizations and Federal agencies as outlined in the CEQ guidelines. Copies of the statement are available for inspection during regular working hours at USDA, Agricultural Stabilization and Conservation Service, Room 4702-South Building, 14th & Independence Avenue, SW., Washington, D.C. 20250, and at the State office for the Agricultural Stabilization and Conservation Service in each State. A limited number of single copies are available upon request to the Washington, D.C. office.

Comments concerning the proposed action should be addressed to the Director, Cotton, Rice, and Oilseeds Division, Agricultural Stabilization and Conservation Service, Washington, D.C. 20250.

Any substantive comments received on this draft environmental statement before final action on the legislation will be forwarded to the appropriate congressional committee(s).

Signed at Washington, D.C. on February 19, 1975.

GLENN A. WEIR,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.75–5079 Filed 2–25–75;8:45 am]

Cooperative State Research Service

COMMITTEE OF NINE

Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given of a meeting of the Committee of Nine at 8:30 A.M., April 16–17, 1975, in Room 104–A, Administration Bldg., U.S. Department of Agriculture, Washington, D.C.

The purpose of the meeting is to evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of funds for fiscal year 1976. The meeting is open to the public and written statements can be filed with the Committee before or after the meeting.

The names of the members of the Committee, the agenda, minutes, and other information pertaining to the meeting may be obtained from the Recording Secretary, Committee of Nine, Cooperative State Research Service, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone 202–447–2301.

Dated: February 18, 1975.

R. L. LOVVORN,
Administrator.

[FR Doc.75–5080 Filed 2–25–75;8:45 am]

Farmers Home Administration

[Designation Number A147]

IOWA

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Iowa:

Buena Vista	Mitchell
Cherokee	O'Brien
Chickasaw	Osceola
Clay	Plymouth
Lyon	Sioux

The Secretary has found that this need exists as a result of natural disasters consisting of a blizzard January 10 through 12, 1975, in all counties except Chickasaw County which had drought May 5 through June 23, 1974, excessive rainfall July 6 through July 30, 1974, and a killing frost September 22, 1974; and Mitchell County which had a killing frost September 3, 1974.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93–237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Robert D. Ray that such designation be made.

Applications for Emergency loans must be received by this Department no later than April 21, 1975, for physical losses and November 19, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C. this 21st day of February, 1975.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.75–5143 Filed 2–25–75; 8:46 am]

[Designation Number A144]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in the following counties in Texas:

Hunt	Reagan

The Secretary has found that this need exists as a result of a natural disaster consisting of drought June 20 to August 26, 1974, excessive rainfall August 27 to December 12, 1974, and severe insect damage caused by the adverse weather conditions August 26 to December 12, 1974, in Hunt County and drought September 30, 1973, to September 15, 1974, and excessive rainfall September 15 to October 30, 1974, in Reagan County.

Therefore, the Secretary has designated these areas as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93–237, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for Emergency loans must be received by this Department no later than April 11, 1975, for physical losses and November 11, 1975, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated areas makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 20th day of February, 1975.

FRANK B. ELLIOTT,
Administrator, Farmers Home Administration.

[FR Doc.75–5144 Filed 2–25–75;8:45 am]

Forest Service

ROCK CREEK ADVISORY COMMITTEE

Notice of Meeting

The Rock Creek Advisory Committee will meet at 7 p.m. on March 18, 1975. Meeting place will be in Drummond, Montana in the Catholic Church basement.

The purpose of this meeting is to continue Committee review of the planning processes and review and critique of management options in Upper Rock Rock Creek.

The meeting will be open to the public. Any member of the public who wishes to do so shall be permitted to file a written

statement with the Committee before or after the meeting. To the extent that time permits, the Committee Chairman may permit interested persons to present oral statements at the meeting.

General participation by members of the public, or questioning of Committee members or other participants shall not be permitted unless approved by the majority of Committee members.

Dated: February 12, 1975.

ROBERT W. DAMON,
Forest Supervisor,
Deerlodge National Forest.

[FR Doc.75-5047 Filed 2-25-75;8:45 am]

EXPERT PANEL ON NITRITES AND NITROSAMINES

Meeting and Agenda

Notice is hereby given of a meeting of the Expert Panel on Nitrites and Nitrosamines to be held in Room 218A (Conference Room), Administration Building, 14th and Independence Avenue, SW., Washington, D.C., March 28, 1975, at 9:30 a.m. This is the sixth scheduled meeting of the Panel.

There will be no formal agenda for the Panel meeting. The Panel will continue developing recommendations with respect to nitrite use for submittal to the Secretary of Agriculture. Discussions will be primarily limited to Panel participation; however, where appropriate, public comment and questions will be solicited during the course of the meeting.

The meeting will be open to the public and under the direction of the Panel Chairman or his designee. Written statements may be filed with the Panel before or after the meeting. Any member of the public who wishes to attend or who has further questions should contact the Issuance Coordination Staff, Technical Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 4905, South Agriculture Building, Washington, D.C. 20250, Area Code (202) 447-6189. Any person who wishes to file a statement may send such statement to the Issuance Coordination Staff at the above address.

Dated: February 20, 1975.

HARRY C. MUSSMAN,
Executive Secretary.

[FR Doc.75-5081 Filed 2-25-75;8:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

SS SANTA ROSA

Invitation for Bids for Sale for Operation or for Scrapping

Notice is hereby given that pursuant to the provisions of section 1105 of the Merchant Marine Act, 1936, as amended, the Maritime Administration has issued Invitation for Bids No. PD-X-994, dated February 25, 1975, inviting sealed bids for the purchase of the SS Santa Rosa, Official No. 276598, located at the James River, Virginia, Reserve Fleet.

The SS Santa Rosa is a P2-S2-11A twin kingpost steam screw passenger and freight vessel built in 1958 by Newport News Shipbuilding and Dry Dock Company. The ship is of 11,353 gross registered tons, 540.3' registered length, 84.1' in breadth, 29.5' in depth and with a draft of 27' 2".

The Maritime Administration is inviting sealed bids from citizens and noncitizens of the United States. The ship may be purchased for operation in permissible world trade or for scrapping within the United States or in a friendly foreign country.

The ship is offered for sale on an "as is, where is" basis under the terms and conditions set forth in the Invitation.

No published minimum acceptable bid price is placed on this ship. The Contract of Sale to be given in connection therewith shall be executed within 45 days from the date of award of the ship to the Buyer. The Buyer shall pay to the Maritime Administration, in cash, or certified or cashier's check made payable to "Maritime Adm.-Commerce", concurrently with the execution of the contract, the full purchase price of the ship, if purchased for cash, or an amount not less than twenty-five (25) percent of the purchase price of the ship, if purchased under mortgage terms.

A ten (10) percent bid deposit is required with each bid.

The Maritime Administration reserves the right to reject any and all bids received.

Each bid for operation is to be accompanied by a suitably detailed outline of the proposed operation of the ship, together with sufficient detail concerning the financial resources of the bidder to enable the Maritime Administration to determine the ability of the bidder to consummate the transaction and operate the ship in the manner contemplated.

Bids will be received until 2:15 p.m., Eastern Daylight Time, March 27, 1975, and public opening will be held at that time on that date at the offices of the Maritime Administration, Room 3708, Commerce Building, 14th Street between E and Constitution Avenue, NW., Washington, D.C. 20230.

Any person, firm or corporation desiring to submit bids pursuant to the foregoing notice may obtain copies of the Invitation for Bids No. PD-X-994 by writing to Burt Kyle, Director, Office of Domestic Shipping, Maritime Administration, Room 6616, Commerce Building, Washington, D.C. 20230, or if calling in person may pick up same in Room 6628, Department of Commerce, Washington, D.C.

Dated: February 20, 1975.

By Order of the Maritime Administration.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-5146 Filed 2-25-75;8:45 am]

National Oceanic and Atmospheric Administration

AQUARIUM SYSTEMS INC.

Withdrawal of Permit Application for Marine Mammals

On October 15, 1974, notice was published in the FEDERAL REGISTER (39 FR 36882), that an application had been filed with the National Marine Fisheries Service by the Aquarium Systems Inc., 1450 East 289 Street, Wickliffe, Ohio 44092 and the Aquarium of Niagara Falls, New York, for a permit to take two (2) California sea lions (*Zalophus californianus*), for the purpose of public display at the Aquarium of Niagara Falls, New York.

Notice is hereby given that the Aquarium Systems Inc. and the Aquarium of Niagara Falls have requested to withdraw the application, and that the request to withdraw was acknowledged and accepted without prejudice by the National Marine Fisheries Service on November 27, 1974.

Dated: February 18, 1975.

JACK W. GEHRINGER,
Acting Director, National
Marine Fisheries Service.

[FR Doc.75-5130 Filed 2-25-75;8:45 am]

BROOKFIELD ZOO

Receipt of Application for Public Display Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Brookfield Zoo, Chicago Zoological Park, Brookfield, Illinois-60513, to take one (1) Atlantic bottlenose dolphin (*Tursiops truncatus*) for the purpose of public display.

The bottlenosed dolphin will be taken by a professional collector from the Gulf of Mexico, either in coastal waters of the State of Florida or coastal waters of the State of Mississippi, by means of standard shallow water net techniques. The dolphin is intended to be taken during 1975.

The dolphin will be maintained and displayed, along with three other dolphins, in an enclosed pool measuring 100 feet long, 25 feet wide and up to 18 feet deep, with a capacity of 190,000 gallons of water.

Care and maintenance is provided by a staff of five senior staff members, with from six to thirteen years experience, and a staff veterinarian.

The arrangements and facilities for transporting and maintaining the marine mammal requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammal involved.

Documents submitted in connection with the above application are available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and the Offices of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, and the Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235 on or before March 28, 1975. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 20, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-5122 Filed 2-25-75;8:45 am]

LAFAYETTE PARK ZOO

Receipt of Application for Public Display Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Lafayette Park Zoo, 3500 Granby Street, Norfolk, Virginia 23508, to take one (1) California sea lion (*Zalophus californianus*) for the purpose of public display.

The Applicant requests a permit in order to retain a female California sea lion, which was found stranded in a coastal area of Norfolk, Virginia on October 8, 1974, and was placed into the care of the Applicant by local officials for the purpose of nursing it back to health, in accordance with the provisions of section 109 of the Marine Mammal Protection Act. In the opinion of the Applicant this sea lion could not survive in the wild.

This sea lion will be maintained, along with three other sea lions currently held at the Lafayette Park Zoo, in a facility with a pool 4½ feet deep, 41 feet wide, 55 feet long, and a 65,000 gallon capacity.

James L. Bousquet, the superintendent of the Zoo, has had considerable experience with marine mammals. He has worked with seals at Lodi, California; Fresno, California; San Francisco, California; and Providence, Rhode Island. The Zoo also has a full-time zoologist on the staff, and a veterinarian who is available on call.

The Lafayette Park Zoo is a municipal zoo which hosts an estimated 350,000 persons annually.

The arrangements and facilities for maintaining the marine mammal requested in the above application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the California sea lion.

Documents submitted in connection with the above application are available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, 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.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on this application on or before March 28, 1975 to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this Notice in support of this application are summaries based upon information supplied by the Applicant and, therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 6, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management National Marine Fisheries Service.

[FR Doc.75-5125 Filed 2-25-75;8:45 am]

MARINE MAMMALS

Notice of Fish Import Certifications From Iceland, Ireland, and France

Regulations established in accordance with the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407, (published in 39 FR 32117 on September 5, 1974) provide that a nation may make certification regarding vessels fishing under its flag in order to permit importation into the United States of certain of its fish and fishery products.

The Director, National Marine Fisheries Service, has received and accepted certifications from the Governments of Iceland, Ireland, and France that vessels fishing under their flags are fishing in conformance with U.S. regulations regarding the taking of marine mammals incidental to commercial fishing operations.

Copies of certifications are on file and available for review in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: February 28, 1975.

JOSEPH W. SLAVIN,
Acting Director.

[FR Doc.75-5131 Filed 2-25-75;8:45 am]

OHIO STATE UNIV.

Receipt of Application for Scientific Research Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take and import marine mammals for scientific research as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Dr. Tony J. Peterle, Chairman, Department of Zoology, College of Biological Sciences, The Ohio State University, 1735 Neil Avenue, Columbus, Ohio 43210, to import tissues of the following cetacean species for the purpose of scientific research.

Fin whale	*Balaenoptera physalus.*
Sei whale	*Balaenoptera borealis.*
Minke whale	*Balaenoptera acutorostrata.*
Humpback whale	*Megaptera novaeangliae.*
Right whale	*Eubalaena australis.*
Sperm whale	*Physeter catadon.*
Common dolphin	*Delphinus delphis.*
Common dolphin	*Delphinus sp.*
Bottlenosed dolphin.	*Tursiops truncatus.*
Striped dolphin	*Stenella coeruleoalba.*
Risso's dolphin	*Grampus griseus.*
Ganges dolphin	*Platanista gangetica.*
Franciscana dolphin.	*Pontoporia blainvillei.*
Amazon dolphin	*Inia geofrensis.*
Finless dolphin	*Neomeris phocaenoides.*
Dall's porpoise	*Phocoenoides dalli.*
True's porpoise	*Phocoenoides truei.*

The Applicant requests a permit to import these samples for research on the level of pollutants found in the marine ecosystem. The samples are of brain blubber, muscle, liver, endocrine glands and bone. From each a sample part of the tissue will be immediately analyzed while the remainder will be preserved for future study. The techniques of analyses include gas and thin-layer chromotography, atomic absorption spectrometry and mass spectrometry. The specimen materials were previously collected by Dr. George Pilleri, of the Brain Anatomy Institute, Bern, Switzerland, in the course of his work at various locations throughout the world. The Applicant states that no live animals are to be imported for this research.

The Applicant has been advised that a separate application for a permit under the Endangered Species Act of 1973 is necessary for specimens of species subject to that legislation.

Documents submitted in connection with the above applications are available

for review at the following locations: Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235 and the Office of the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235 on or before March 28, 1975. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 13, 1975.

WALTER KIRKNESS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-5129 Filed 2-25-75;8:45 am]

PORTLAND ZOOLOGICAL GARDENS

Receipt of Application for a Public Display Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Portland Zoological Gardens, 4055 S.W. Canyon Road, Portland, Oregon 97221, to take up to ten (10) Pacific harbor seals (*Phoca vitulina richardii*) for the purpose of public display.

The applicant proposes to take up to ten harbor seal pups and maintain them as part of the zoo's display. The animals to be taken are principally those reported by the Oregon Game Department or other government agency as abandoned. The applicant states that mature animals are not to be taken.

The seals will be held in the zoo's nursery area while the zoo's seal pool is being renovated. The nursery includes two indoor enclosures of 175 square feet each with adequate pool facilities and two adjacent outdoor areas of 700 square feet each. The renovated seal pool will measure 55 feet in diameter and 8 feet in depth with a capacity of about 50,000 gallons.

The Portland Zoo is operated by the city of Portland and is visited by some two-thirds of a million people a year. A nominal admission fee is charged.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review at the following locations: Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 and the Office of the Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

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 March 28, 1975. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries based upon information supplied by the Applicant and therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 12, 1975.

WALTER KIRKNESS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.75-5124 Filed 2-25-75;8:45 am]

MORRO BAY AQUARIUM

Receipt of Application for a Public Display Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

Morro Bay Aquarium, 595 Embarcadero, Morro Bay, California 93442, to take two (2) California sea lions (*Zalophus californianus*) and two (2) Pacific harbor seals (*Phoca vitulina richardii*) for the purpose of public display.

The California sea lions will be taken by a professional collector from the California Channel Islands. The animals will be collected during the period of November to April.

The Pacific harbor seals will be taken in the Morro Bay area by the applicant.

The animals will be maintained in three tanks which measure 16 feet long by 10 feet wide by six feet deep, 12 feet long by 10 feet wide by 4 feet deep and ten feet long by 10 feet wide by 2½ feet deep, respectively. Two of the tanks are equipped with haul-out platforms and each tank is supplied with 47,000 gallons of sea water every day.

The display is open seven days a week and is visited by over 20,000 people a year. The Morro Bay Aquarium is a profit making corporation. School groups regularly visit the facility. Mr. Dean Tyler, Curator, has ten years experience in displaying marine mammals. Veterinary services are available, if needed, by a local veterinarian.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and the Office of the Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on this application on or before March 28, 1975, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of this application are summaries based upon information supplied by the Applicant and, therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 6, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management National Marine Fisheries Service.

[FR Doc.75-5126 Filed 2-25-75;8:45 am]

NAVAL UNDERSEA CENTER

Modification of Permit

Notice is hereby given that, pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (39 FR 1851, January 15, 1974), the Scientific Research Permit issued to the Naval Undersea Center, Biosystems Research Department, on March 5, 1974, as modified on July 8, 1974 (39 FR 24932) and on August 2, 1974 (39 FR 27933), is further modified, by means of modification No. 4, in the following manner:

The Period of validity of the Permit is extended from June 30, 1975, to December 31, 1975.

This modification is effective on February 26, 1975.

The permit as modified is available for review in the Office of the Director,

National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90732.

Dated: February 11, 1975.

JACK W. GEHRINGER,
Acting Director, National Marine Fisheries Service.

[FR Doc.75-5128 Filed 2-25-75;8:45 am]

SAN DIEGO ZOOLOGICAL GARDEN

Receipt of Application for a Public Display Permit

Notice is hereby given that the following applicant has applied in due form to take and import marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

San Diego Zoological Garden, P.O. Box 551, San Diego, California 92112, to take and import four (4) Southern sea lions (*Otaria bryonia*) for the purpose of public display.

The southern sea lions are requested to supplement a pair of this species already on exhibit. The applicant intends to establish a reproductive group of this species similar to that found in the wild in hopes of increasing the chances of the animals reproducing in captivity.

The sea lions are to be captured by a professional collector in the vicinity of Lima, Peru. The animals will be transported to the United States via a commercial airline which has previous experience in transporting sea lions.

A fresh water pool of 165,000 gallon capacity and a large haul out area will house the animals. The water is changed every other day and the pool is flushed and hosed clean three times a week. A staff of five veterinarians is available for animal health care maintenance.

The San Diego Zoo is a nonprofit corporation. Over 3 million visitors a year are recorded. The zoo employs on its staff, teachers who work with the local schools and universities in utilizing the Zoo's displays.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application, have been inspected by a licensed veterinarian who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with this application are available in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, the Office of the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731 and the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written views or data, 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 March 28, 1975. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this Notice in support of this application are summaries based upon information supplied by the Applicant and, therefore, do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: February 18, 1975.

ROBERT F. HUTTON,
Associate Director for Resource Management, National Marine Service.

[FR Doc.75-5123 Filed 2-25-75;8:45 am]

SEA WORLD

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (39 FR 1851, January 15, 1974), the Public Display Permit issued to Sea World, Incorporated, San Diego, California 92109, on September 27, 1974, is modified, by means of Modification No. 1, in the following manner:

A special condition is added to the Permit, stating that the authorized marine mammals are to be taken by Sea World personnel, under the supervision of qualified individuals identified in the application, or other such individuals as are approved by the Director.

This modification is effective on February 26, 1975.

The Permit, as modified, is available for review in the Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, and in the Offices of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, and the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: February 6, 1975.

JACK W. GEHRINGER,
National Marine Fisheries Service.

[FR Doc.75-5127 Filed 2-25-75;8:45 am]

Social and Economic Statistics Administration

CENSUS ADVISORY COMMITTEE ON POPULATION STATISTICS

Public Meeting

The Census Advisory Committee on Population Statistics will convene on April 4, 1975 at 9:30 a.m. The Committee will meet in Room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Population Statistics was established in 1965 to advise the Director, Bureau of the Census, on current programs, on plans for the 1970 Census of Population and on other matters dealing with the collection and issuance of population statistics.

The agenda for the meeting is: (1) The statistical system planning process; (2) Current commuting data from the Annual Housing Survey supplement; (3) Data for statistical areas—current vs. 1970 Standard Metropolitan Statistical Area boundaries, urban townships, and larger minimum size of urban areas; (4) Current status of 1980 Census planning; (5) Follow-on survey after the 1980 Census; (6) Research on ethnic identification, income, voting, relationship, and the counting of Indians; and (7) Subnational population projections.

A limited number of seats—approximately 15—will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least three days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Control Officer, Dr. Paul C. Glick, Senior Demographer, Population Division, Bureau of the Census, Room 2011, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763-7030.

VINCENT P. BARABBA,
Director, Bureau of the Census.

[FR Doc.75-5109 Filed 2-25-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Director, Center for Disease Control announces the meeting date and other required information for the following National Advisory body of the National Institute for Occupational Safety and Health which is scheduled to assemble during the month of March 1975.

Committee name	Date/Time/Place	Type of meeting and/ro contact prseon
Coal Mine Health Research Advisory Committee.	March 20, 1975, 9 a.m., conference room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open—9 a.m. to 4 p.m., Closed—remainder of meeting, Contact: Dr. Jack Butler, NIOSH, room 3-30 Park Bldg., 5600 Fishers Lane, Rockville, Md. 20852.

Purpose: The Committee is charged with advising the Secretary, Department of Health, Education, and Welfare on matters involving or relating to coal mine health research, including grants and contracts for such research.

Agenda: From 9 a.m. to 4 p.m. on March 20, the Committee will be open for discussion of current status of the autopsy program, background of computer-assisted chest x-ray readings, project site visit report on computer chest x-ray analysis, program plans in mining research, second-round medical examinations of coal miners, and current activities of NIOSH research programs. From 4 p.m. through the end of the meeting, the Committee will review research grant applications and will not be open to the public, in accordance with the determination by the Director, Center for Disease Control, pursuant to the provisions of Pub. L. 92-463, section 10 (d).

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: February 18, 1975.

DAVID J. SENCER,
Director, Center for Disease Control.

[FR Doc.75-4947 Filed 2-25-75;8:45 am]

Food and Drug Administration

[FAP 4B2989]

E. I. DUPONT DE NEMOURS & CO., INC.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4B2989) has been filed by E. I. DuPont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898, proposing that § 121.2555 *Perfluorocarbon resins* (21 CFR 121.2555) be amended to provide for safe use of lithium polysilicate as a component of perfluorocarbon resins intended to contact food.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: February 19, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-5070 Filed 2-25-75;8:45 am]

[DESI 740; Docket No. FDC-D-664; NDA 4-038, etc.]

ESTROGENS FOR ORAL OR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Amended Notice

A notice (DESI 740) was published in the FEDERAL REGISTER of September 26, 1973 (38 FR 26824), concerning, among other things, the labeling conditions for certain estrogens for oral or parenteral use. These products are used in patients with deficiency of estrogen or other disease conditions.

A notice was published in the FEDERAL REGISTER of February 5, 1975 (40 FR 5351) amending § 310.501 to set forth the conditions for approval and safe and effective use of 25 mg. tablets of diethylstilbestrol (DES) as an oral postcoital contraceptive. That notice requires that these 25 mg. tablets be specially packaged and accompanied by a patient leaflet fully explaining the use of the product. There are no other dosage forms or strengths of any drug product, including those referred to in the notice of September 26, 1973 (DESI 740), approved for this use.

In order to discourage use for postcoital contraception of dosage strengths of DES other than the specially packaged 25 mg. tablets which are accompanied by the patient leaflet, the Director of the Bureau of Drugs concludes that labeling for such other strengths should state that the product should not be used for postcoital contraception. This notice announces that conclusion.

Therefore, paragraph B.2. Labeling conditions, appearing in the notice of September 26, 1973, is hereby amended to read as follows:

2. Labeling conditions. The labeling conditions are the same as those described in the notice of November 10, 1971, with the following exceptions:

a. The probably effective and possibly effective indications are no longer allowable.

b. Labels and labeling for products containing diethylstilbestrol, diethylstilbestrol diphosphate, or diethylstilbestrol dipropionate shall include the following statement in block capital letters: THIS DRUG PRODUCT SHOULD NOT BE USED AS A POSTCOITAL CONTRACEPTIVE.

In the case of the physician's package insert, the statement shall appear before the description of the drug. In the case of container and carton labels, the statement shall appear in a prominent, conspicuous location. Complete labeling guidelines are available on request.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Director, Bureau of Drugs (21 CFR 2.121).

Dated: February 19, 1975.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.75-5071 Filed 2-25-75;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on March 7, 1975 at the Lyndon B. Johnson Library, Austin, Texas.

The National Council on Educational Research is established under section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute;

(c) Recommending to the Assistant Secretary and the Director ways to strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

This meeting will be open to the public except for the closed session. The tentative agenda includes:

9:15	Convene open session.
9:15-10:15	Director's remarks: Fiscal year 1975 status. Fiscal year 1976 budget and program.
10:15-10:30	Reviews of NIE management.
10:30-11:30	Fiscal year 1977 planning issues.
11:30-12:30	Luncheon.
12:30-2	Congressional reauthorization and consideration of Fiscal year 1976 appropriation (end of open session).
2-3	Executive session.
3	Adjourn.

Members of the public are invited to attend the open sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any

time and should be sent to the Chairman and the Executive Secretary of the Council at the address shown below. Requests to address the Council meeting should be submitted in writing to the Chairman and the Executive Secretary at least five days in advance of the meeting. The Chairman will determine whether a presentation should be scheduled.

In accordance with Council policy (NCER Resolution No. 013074–8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Executive Secretary. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately four to six weeks after the date of the meeting to which they refer.

In order to verify the tentative agenda, assure adequate seating arrangements, or to obtain summaries of this meeting and copies of any resolutions adopted by the Council at this meeting, interested persons are requested to contact Ms. Caroline Phillips, Executive Secretary, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research, Office of Planning and Management, National Institute of Education, Washington, D.C. 20208, 202–254–7900.

Dated: February 21, 1975.

EMERSON J. ELLIOTT,
Acting Director,
National Institute of Education.

[FR Doc.75–5064 Filed 2–25–75;8:45 am]

Office of the Secretary

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name: National Professional Standards Review Council Ad Hoc Subcommittee on Physician Reimbursement for Review

Date and Time: March 31, 1975 (9 a.m. to 12 noon)

Place: Room 5051, DHEW North Building, 330 Independence Avenue, SW., Washington, D.C.

Purpose of Meeting: The Ad Hoc Subcommittee on Physician Reimbursement for Review was established to assist the National Professional Standards Review Council in the area of reimbursement of physicians by PSROs for medical care review. The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI, Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality health care. The Subcommittee's agenda will include a discussion of issues relevant to the reimbursement of physicians by PSROs for medical care review.

Meeting of the Subcommittee is open to the public. Public attendance is limited to space available.

Any member of the public may file a written statement with the Subcommittee before, during, or after the meeting. To the extent that time permits, the Subcommittee Chairman may allow public presentation of oral statements at the meeting.

All communications regarding this Subcommittee should be addressed to John R. Farrell, M.D., Director, Office of Professional Relations, Office of Professional Standards Review, Room 16A–16, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852.

Dated: February 18, 1975.

HENRY E. SIMMONS,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.75–5134 Filed 2–25–75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket Nos. 14318 and 14317; Reference Notice Nos. 75–6 & 75–5]

FLEET NOISE LEVEL AND CIVIL SUBSONIC TURBOJET ENGINE POWERED AIRPLANES: NOISE RETROFIT REQUIREMENTS

Public Hearings

The Federal Aviation Administration will hold public hearings March 18 and 19, and April 17 and 18, 1975, on two proposed amendments to the Federal Aviation Regulations (14 CFR Chapter 1) submitted to the FAA by the Environmental Protection Agency (EPA) under section 611(c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92–574). These hearings will afford interested persons the opportunity to present views, data, and arguments regarding the substance and issues raised in the proposals contained in Notice 75–6, "Fleet Noise Level Requirements" (40 FR 8222; February 26, 1975) and Notice 75–5, "Civil Subsonic Turbojet Engine Powered Airplanes" (40 FR 8218; February 26, 1975).

These hearings will be conducted in the Auditorium on the 3rd Floor of the Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C., convening at 9 a.m. each day, according to the following schedule:

March 18 and 19—"Civil Subsonic Turbojet Engine Powered Airplanes: Noise Retrofit Requirements"; Notice No. 75–5 (40 FR 8218; 1975; Docket No. 14317).

April 17 and 18—"Fleet Noise Level Requirements"; Notice No. 75–6 (40 FR 8222; 1975; Docket No. 14318).

In the event that the response to this notice exceeds the time allotted to the hearing on the "Noise Retrofit Requirements," that hearing will be continued to March 20, 1975, in the FAA Auditorium.

The hearings will be informal in nature and will be conducted by a designated representative of the Administrator under 14 CFR 11.33. At each hearing, FAA spokesmen will make a brief opening statement regarding the proposals contained in the respective notices. Since the hearings will not be evidentiary or judicial in nature, there will be no cross-examination or other adjudicatory procedure applied to the presentations. However, interested persons wishing to make rebuttal statements will be given an opportunity to do so at the conclusion of the presentations in the same order in which initial statements are made.

Interested persons are invited to attend the hearings and to participate by making oral or written statements concerning the respective proposals. Written statements should be submitted in duplicate and will be made a part of the regulatory docket of each proposed amendment. Persons wishing to make oral statements at one or both of the hearings must notify the FAA as to which proceeding and the date they desire to be heard, and indicate the amount of time requested for their initial statements. Presentations will be scheduled on a first-come-first-served basis, as time may permit. Requests to be heard should be addressed: "Attention: Presiding Officer, Public Hearing on Notice No. 75–(5 or 6, as may be appropriate), Office of the Chief Counsel, Rules Docket, AGC–24, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591."

In addition to material presented for the purpose of the hearings, persons not participating in the hearings are invited to submit relevant written comments to the regulatory docket established for each notice of proposed rule making. As stated in those notices, such written comments should identify the notice or docket number and be submitted in duplicate to: Office of the Chief Counsel, Rules Docket, AGC–24, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. The closing date for submitting written comments is announced in the respective notices of proposed rule making. All comments will be available for examination in the FAA Rules Docket both before and after the closing date for comments.

Notice No. 75–5 and Notice No. 75–6 were issued by the FAA in accordance with section 611(c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (Pub. L. 92–574). Each notice contains proposed regulations submitted to the FAA by EPA to provide such control and abatement of aircraft noise as EPA determines is necessary to protect the public health and welfare. The notices present EPA's analysis of the background of the respective proposals and contain the material that is the subject of the public hearing. While all relevant comments are of interest, the FAA specifically invites

relevant statements or comments concerning the following:

(a) Available data relating to aircraft noise, including the results of research, development, testing, and related evaluation activities.

(b) The views and positions of other Federal, State, and interstate agencies.

(c) Whether the proposed regulations would be consistent with the highest degree of safety in air commerce and air transportation in the public interest.

(d) Whether the proposed regulations would be—

(1) Economically reasonable;

(2) Technologically practicable; and

(3) Appropriate for the particular types of aircraft, aircraft engines, appliance or certificate to which they would apply.

(e) The extent to which the proposed regulations would contribute to providing protection to the public health and welfare and to carrying out the other purposes of section 611 of the Federal Aviation Act of 1958, as amended.

(f) The overall environmental impacts of the proposed regulations (including environmental factors other than noise).

Before taking further action under section 611(c) of the Federal Aviation Act of 1958, the FAA will consider all statements presented at the hearings and all relevant written statements and comments submitted and made part of the regulatory dockets. The specific terms and substance of proposals contained in the respective notices may be changed in the light of those statements and comments presented.

Transcripts of the hearings will be made and anyone may purchase copies of each from the reporter. A transcript of the hearings will be available for examination in the respective rule dockets.

AUTHORITY: Secs. 313(a), 601, 603, 604, 605, and 611(c) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348 (a) and (c), 1354(a), 1421, 1423, 1424, 1425, and 1431(c)), sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c), and 44 U.S.C. 1508).

Issued in Washington, D.C., on February 21, 1975.

CHARLES R. FOSTER,
Director,
Office of Environmental Quality.

[FR Doc.75-5095 Filed 2-25-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 26310]

ACCEPTANCE AND CARRIAGE OF LIVE ANIMALS IN DOMESTIC AIR FREIGHT TRANSPORTATION

Prehearing Conference

Notice is hereby given that a second prehearing conference in the above-captioned proceeding will be convened on April 8, 1975 at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C. 20428 with the undersigned presiding.

The Bureau of Economics will serve four copies of the following documents on the Administrative Law Judge and one copy thereof on each person named in the service list of the preliminary prehearing conference report served in this proceeding on July 11, 1974, on or before March 17, 1975.

1. *Proposed statement of issues.* (a) *The Statutory issues.*

Refer to Orders 74-1-79, January 14, 1974; 74-5-56, May 10, 1974; 74-7-26, July 5, 1974 and Appendix A, preliminary prehearing conference report served July 11, 1974.

(b) *The Sub-issues.*

Sub-issues must be concisely stated and grouped under the following functional classifications:

(i) Acceptance.
(ii) Packaging.
(iii) Documentation.
(iv) Health certification.
(v) Care and handling.
(vi) Priority of shipment.
(vii) Flight environment.
(viii) Pickup and delivery.
(ix) Embargoes.

2. *Proposed stipulations.* The Bureau of Economics will summarize, by each functional classification set forth in paragraph 1(b) preceding, all understandings reached by the various Working Groups with respect to narrowing and resolving the several issues, the drafting of proposed tariff rules, and the development of a mutually agreeable request for information and evidence.

3. *Request for information and evidence.* The Bureau of Economics will prepare a request for information and evidence by functional classification as set forth in paragraph 1(b) preceding.

4. *Tentative statement of position.*

5. *Proposed procedural dates.* The carrier parties and the intervenors may respond to the Bureau's submissions pursuant to paragraphs 1, 2, 3, 4, and 5, on or before March 31, 1975. The parties will serve four copies of their responses on the Administrative Law Judge and one copy on each person named in the service list of the preliminary prehearing conference report. Responses to the Bureau's material submitted by the various parties will be restricted to matters on which there is substantial disagreement with the Bureau and each response will be cross-referenced to the precise Bureau submission in question.

Dated at Washington, D.C., February 21, 1975.

[SEAL] ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc.75-5137 Filed 2-25-75;8:45 am]

[Docket 27539; Order 75-2-88]

AEROPERU

Statement of Tentative Findings and Conclusions and Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of February, 1975.

AeroPeru (Empresa de Transportes Aero del Peru) is the holder of a foreign air carrier permit, issued pursuant to Order 74-7-121,[1] which authorizes it to perform foreign air transportation with respect to persons, property, and mail, over a route between: (1) a point or points in Peru; the intermediate points Guayaquil and Quito, Ecuador; Bogota and Cali, Colombia; Panama City, Panama; Caracas, Venezuela; and Miami, Florida; and the terminal point Montreal, Canada; and (2) a point or points in Peru; the intermediate points Guayaquil, Ecuador; and Mexico City, Mexico; and the terminal point Los Angeles, California; and to engage in charter trips subject to Part 212 of the Board's Economic Regulations. This permit, issued pursuant to the Air Transport Services Agreement between the Government of the United States and the Government of Peru, enables AeroPeru to operate to the United States with whatever number of frequencies and combination of authorized points it desires, utilizing whatever type aircraft it alone chooses.

The Government of Peru has issued operating permits to the United States-designated carrier (Braniff Airways, Inc.) authorizing scheduled air services between specified points in the United States and Lima, via named intermediate points and beyond Lima to named points. Frequencies, itineraries and equipment are all specified. Should the carrier wish to implement any changes in its operations, it must obtain the prior approval of the aeronautical authorities of Peru.

On April 3, 1974 the Government of Peru canceled the U.S.-designated carrier's operating permit, which was due to expire in June 1975, under the terms of a Decree which provided for the cancellation of all operating permits whose terms had exceeded three years. Braniff was advised by the Peruvian authorities that renewal of its operating permit would be contingent upon the existence of real reciprocity, defined as an equivalence in the number of frequencies operated by the U.S. carrier and AeroPeru or, in the event this situation did not exist, upon the U.S. carrier providing effective compensation, either in the form of payments of 20 percent of its receipts on certain sectors or in the form of technical or other assistance.

In May 1974 the U.S.-designated carrier applied to the aeronautical authorities of Peru for authority to operate two additional frequencies to that country. When the Government of Peru indicated that it would not approve the U.S. carrier's application, the United States Government noted its objections and requested the Peruvian authorities to reconsider their decision pending consultations. The Peruvian authorities declined to do so, in clear violation of the Air Transport Services Agreement.[2]

[1] Approved by the President on July 25, 1974 (Docket 26600).

[2] The Air Transport Services Agreement between the United States and Peru provides that:

"1. The two Governments find themselves in agreement that under the terms of the Air Transport Agreement the responsibility for the determination of the appropriate capacity, frequency, and type of aircraft used over agreed routes, consonant with the terms of the Agreement, rests in the first instance with the designated airlines. In light of the requirement of Peruvian legislation with regard to the filing of schedules, it is agreed that each Government may require the airlines designated by the other Government to submit schedules, for information purposes only, thirty days prior to the proposed entry into effect of such schedules.

2. Neither Government will delay nor deny the entry into effect of proposed schedules."

On October 22, 1974 the Government of Peru issued the U.S. carrier a new operating permit with an expiration date of February 28, 1975. The permit reduced the number of flights permitted the U.S. carrier between the United States and Peru and beyond and required the carrier to adhere to a prescribed itinerary on those flights which it could continue to operate. Further restrictions were placed on the number of flights that the carrier might operate to individual points along the route. The U.S. carrier's services between Lima, La Paz and Asuncion; Lima, La Paz and Buenos Aires; Lima, La Paz and Santiago and between Lima, Sao Paulo and Rio de Janeiro were authorized provisionally for a period of 45 days, on the grounds that they were not contemplated in the Route Annex of the U.S.-Peru Air Transport Services Agreement, thus further reducing the U.S. carrier's operation beyond Peru to one flight per week. The U.S. carrier was given 45 days, or until January 7, 1975, to comply with the terms of the new permit. Subsequently, this period was extended to January 31, 1975.

Representatives of the Government of Peru and the Government of the United States met for consultations in Lima November 11–15, 1974, and January 8–24, 1975. During the talks the U.S. representatives made clear the United States Government's view that the restrictions the Government of Peru had unilaterally imposed on the U.S. carrier constituted a violation of the Agreement. They urged that the two delegations explore bilateral solutions to the civil aviation problems between the two countries. These talks were unsuccessful. Inter-carrier discussions were similarly unproductive. Beginning February 1, 1975 the U.S.-designated carrier conducted its reduced operations pursuant to the terms of its new permit. Services were continued in order to minimize the impact upon the traveling public of curtailed services and did not constitute acceptance by the United States of the actions taken by the Government of Peru.

The U.S.-Peru Air Transport Services Agreement grants the U.S. carrier rights to freely operate services beyond Peru. In the route definition "and beyond Peru to points in Chile and Bolivia or beyond," Chile and Bolivia are named to provide an indication of the direction in which the beyond traffic might flow. The listing of these two countries does not impose the requirement that they be served, in the order listed, nor does it imply that only Chile and/or Bolivia may be served on any flight beyond Peru. Since it is not mandatory to serve points in Chile or Bolivia, flights may serve points beyond Chile or Bolivia.

Upon consideration of these matters, the Board finds that the Government of Peru has taken unilateral restrictive action against the U.S.-designated carrier's operations, over the objection of the United States Government, which has significantly impaired, limited and denied operating rights in a manner inconsistent with and in violation of the United States-Peru Air Transport Services Agreement. The underlying foundation for the grant of a foreign air carrier permit to AeroPeru rests upon the faithful adherence to the terms of the United States-Peru Air Transport Services Agreement, *i.e.*, the grant to U.S. carriers of the rights exchanged and provided for in that Agreement. Since Peru has denied these rights to the U.S. carrier designated under the Agreement, Braniff Airways, the Board finds that the foundation for the grant of a permit to AeroPeru no longer exists. Accordingly, the Board tentatively finds that cancellation of the foreign air carrier permit held by AeroPeru would be in the public interest.

Accordingly, *it is ordered* That: 1. All interested persons are hereby directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and which would, subject to the approval of the President, cancel the foreign air carrier permit held by AeroPeru (Empresa de Transportes Aero del Peru) (Order 74–7–121);

2. Any interested perhon having objection to the issuance, without hearing, of an order making final the tentative findings and conclusions stated herein shall file a statement of objections supported by evidence within 20 days of service of this order. If an evidentiary hearing is requested, the objector should state in detail why such hearing is considered necessary and what relevant and material facts he would expect to establish through such hearing which cannot be established in written pleadings;

3. If timely and properly supported objections are filed, further consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board; *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions herein if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. Copies of this order shall be served upon AeroPeru and the Ambassador of Peru in Washington, D.C.

This order will be published in the FEDERAL REGISTER, and will be transmitted to the President.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.75–5138 Filed 2–25–75;8:45 am]

[Docket 22859; Order 75–2–86]

PAN AMERICAN WORLD AIRWAYS, INC.

Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 21st day of February, 1975.

By tariff revisions filed January 24, and marked to become effective February 23, 1975, Pan American World Airways, Inc. (Pan American) proposes, *inter alia*, to increase certain joint general commodity bulk rates between Fairbanks and various U.S. Mainland cities between 18 and 39 percent.

In support of the proposal, Pan American states, *inter alia*, it is filing the increased joint rates in order to incorporate the various local rate increases that were filed by Pan American and/or its interline partners; the rates were constructed over the gateways of New York, Seattle, and Portland, and the lowest rate obtained was selected; other than the 9 percent increase filed effective April 15, 1974, the current rates have been in effect since 1956 and 1958, except for the 100-pound rates, which were reduced May 7, 1961, and Pan American's revenue from the pro rata share of these joint rates will be $8,680, or less than 1 percent of its total Alaskan revenue.

The proposed rates and charges come within the scope of the Domestic Air Freight Rate Investigation, Docket 22859, and their lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposals or to permit them to become effective pending investigation.

The Board has reviewed the instant proposals in the light of industry-average costs of carrying air freight (including taxes and a full return on investment and reflecting recent cost increases) and finds that many of the proposed significantly increased rates (those indicated in Appendix A) are higher than costs.

With respect to Pan American's assertion that its share of the joint rates are unduly low, the carrier's share would seem to depend upon interline agreements with other carriers and that is not in issue in the proposals. In view of the foregoing and all other relevant factors, the Board concludes that the rates indicated above as above costs should be suspended. This action would be consistent with our suspension (on the ground that they exceeded industry-average costs) of joint rates proposed between points on the Mainland, on the one hand, and those in Alaska, Hawaii, Puerto Rico, and the Virgin Islands, on the other (Orders 74–4–76, 74–6–89, 74–9–26, and 74–9–59).

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. Pending hearing and decision by the Board, the increased rates described in Appendix A hereto are suspended and their use deferred to and including May 23, 1975, unless otherwise ordered by the Board and that no change be made therein during the period of suspension except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariffs.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

APPENDIX A

TARIFF C.A.B. NO. 57, ISSUED BY AIR TARIFFS CORPORATION, AGENT

All increased rates from/to Fairbanks, Alaska in Table No. 10, on 1st Revised Page 37.

AIR CARRIERS PATICIPATING IN RATES SUSPENDED ABOVE:

AIR WEST (Huges Air Corp. d/b/a Air West).
ALLEGHENY AIRLINES, INC.
AMERICAN AIRLINES, INC.
BRANIFF AIRWAYS, INC.
DELTA AIR LINES, INC.
EASTERN AIR LINES, INC.
NATIONAL AIRLINES, INC.
NORTHWEST AIRLINES, INC.
(Also operating as Northwest Orient Airlines)
PAN AMERICAN WORLD AIRWAYS, INC.
PIEDMONT AVIATION, INC.
SOUTHERN AIRWAYS, INC.
THE FLYING TIGER LINE INC.
TRANS WORLD AIRLINES, INC.
UNITED AIR LINES, INC.
WESTERN AIR LINES, INC.

[FR Doc.75-5139 Filed 2-25-75;8:45 am]

[Docket 27454, Docket 23080-2, Order 75-2-38]

AIR NEW ENGLAND, INC.

Temporary Priority and Nonpriority Domestic Service Mail Rates—Phase 2

Correction

In FR Doc. 75-4102 appearing at page 6704 in the issue for Thursday, February 13, 1975, the following statement should appear at the beginning of the text: "Issued under delegated authority February 7, 1975".

[Docket 25280, Order 75-2-39, Agreement C.A.B. 24942]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Specific Commodity Rates

Correction

In FR Doc. 75-4101 appearing at page 6704 in the issue for Thursday, February 13, 1975, the following statement should appear at the beginning of the text: "Issued under delegated authority February 10, 1975".

[Docket 26487; Order 75-2-3]

TRANSATLANTIC, TRANSPACIFIC, AND LATIN AMERICAN MAIL RATES

Order Fixing Temporary Rate and Order To Show Cause

Correction

In FR Doc. 75-3970 appearing at page 6704 in the issue of Thursday, February 13, 1975, in footnote 1 the fourth line from the bottom, the figure now reading, "18.86" should read, "13.36".

ENVIRONMENTAL PROTECTION AGENCY

[FRL 337-4]

NATIONAL AIR POLLUTION MANPOWER DEVELOPMENT ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 93-463, notice is hereby given that the National Air Pollution Manpower Development Advisory Committee meeting will be held March 14 and 15, 1975 in Las Vegas, Nevada and will begin 9 a.m. The March 14 meeting will be held in the Conference Room of the National Environmental Research Center, 944 East Harmon Street, Las Vegas, Nevada 89114. On March 15 the meeting will convene in the Nevada Room of the Royal Inn, 305 Convention Center Drive, Las Vegas, Nevada.

This is the regular quarterly meeting of the Advisory Committee. Primarily the meeting will be devoted to Committee review of the status of the fellowships, training grants, and direct training programs and the impact of the current trends and changes in these areas.

The meeting will be open to the public. Any member of the public wishing to attend or participate should contact: Mr. Ronnie E. Townsend, Executive Secretary, National Air Pollution Manpower Development Advisory Committee, Research Triangle Park, North Carolina, (919) 549-8411, extension 2482.

Dated: February 20, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.75-5024 Filed 2-25-75;8:45 am]

[FRL 335-7]

WATER POLLUTION PREVENTION AND CONTROL

Addition to the List of Categories of Sources

Section 306(b)(1)(A) of the Federal Water Pollution Control Act, as amended October 18, 1972 (Pub. L. 92-500), directs the Administrator of the Environmental Protection Agency to publish, and from time to time revise a list of categories of sources which shall, at the minimum, include those listed in section 306(b)(1)(A). As soon as practicable, but in no case more than one year after the inclusion of a category of sources in such list, the Administrator is required to propose and publish regulations establishing Federal standards of performance for new sources within such categories. The original list of 27 source categories was published January 16, 1973 (38 FR 1624). Standards of performance have been promulgated for 26 of the source categories.

The Administrator, after evaluating available information, has determined that paint formulating and printing ink formulating are additional categories of point sources which meet the above requirements. Evaluation of other point source categories is in progress, and the list will be supplemented from time to time as the Administrator deems appropriate. Accordingly, notice is given that the Administrator, pursuant to section 306(b)(1)(A) of the Act amends the list of categories of sources as follows:

LIST OF CATEGORIES OF SOURCES

29. Paint formulating.
30. Printing ink formulating.

Proposed effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources applicable to the above point source categories appear elsewhere in this issue of the FEDERAL REGISTER.

Dated: February 12, 1975.

JOHN QUARLES,
Acting Administrator.

[FR Doc.75-4836 Filed 2-25-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-183]

BROADCAST ANNUAL FEES

Procedure for Payment

FEBRUARY 14, 1975.

This public notice sets forth the procedure for payment of the recalculated broadcast annual fees that the Commission outlined in paragraph 10 of the Report and Order released January 20, 1975 (FCC 75-32). Broadcast annual fees were suspended March 29, 1974 pending the Commission's adoption of a new basis for calculation of broadcast annual fees to be paid in place of the broadcast annual fees that would have been due April 1, June 1, August 1, October 1, December 1, 1974, and February 1, 1975. By adoption of the Second Report and Order on February 11, 1975 (FCC 75-182), the Commission has now established the basis for recalculation of broadcast annual fees for the six dates mentioned herein. Therefore, each station will pay a recalculated broadcast annual fee, and such payment will be made on or before August 1, 1975.

On or about July 10, 1975, each station will receive a special notice from the Commission setting forth the particular formula for computation of its respective recalculated broadcast annual fee that will be due and payable on August 1, 1975.

Action by the Commission February 11, 1975. Commissioners Wiley (Chairman), Lee, Hooks, Quello, Washburn, and Robinson.

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

[FR Doc.75-5111 Filed 2-25-75;8:45 am]

[FCC 75R-61 Docket Nos. 20219, 20220; File Nos. BPH-8660; BPH-8663]

MELVIN PULLEY AND H & G. C. INC.

Construction Permits

In re Applications of Melvin Pulley, tr/as Philadelphia Broadcasting Co. Philadelphia, Mississippi and H & G. C., Inc. Philadelphia, Mississippi for construction permits.

By the Review Board. 1. Melvin Pulley, tr/as Philadelphia Broadcasting Company (Pulley) requests the addition of an ascertainment issue against its competitor, H & G. C., Inc. (H & G. C.) urging that there are a number of deficiencies in the latter applicant's ascertainment

showing.[3] Q. and A. 6 and 7 of the *Primer*[2] detail the efforts which must be made to learn what community problems exist in areas which an applicant will serve outside its principal community, and it is petitioner's argument that H & G. C.'s efforts were inadequate because it has conducted no survey of community leaders and the general public outside the city limits of Philadelphia. This contention will be rejected. The *Primer* affords an applicant wide latitude as to how he ascertains community problems in outlying areas, and since several of the community leaders interviewed by H & G. C. hold positions in organizations having to do with the entire county in which Philadelphia is located, rather than Philadelphia exclusively, more is not required. Furthermore, it is clear that Philadelphia is the only large community in the entire county, the other "communities" referred to in the petition being extremely small.

2. Pulley's attack on the "mechanics" employed in H & G. C.'s community leader survey is not well taken. The affidavit attached to H & G. C.'s opposition makes it clear that the surveys were conducted by principals or management level employees, as required by the "Primer."[4] The Board can find nothing objectionable in the fact that when H & G. C. submitted an amended showing on the ascertainment of community needs, some of the community leaders listed in its original showing were repeated. The May 2, 1974 amendment does not assert that these interviews were newly made.

3. Pulley questions its opponent's survey of the general public because some of the interviews were made by a person who was then an employee of Station WHOC, Philadelphia,[5] and was not listed as a prospective employee of the FM station. It is clear from the opposition that this person was a prospective employee of the FM station. The fact that she has left WHOC and is no longer a prospective employee of H & G. C. does not render that portion of the survey conducted by her invalid. "Itawamba County Broadcasting, Inc.," et al, 46 FCC 2d 60, 29 RR 2d 1154 (1974); "Western Television Co.," FCC 2d, 32 RR 2d 350 (1974).

4. Petitioner's argument that H & G C has failed to consult leaders of significant groups in the community raises a more serious problem. H & G C's demographic data reveals that various types of industry constitute a significant segment of the economic activity of Philadelphia and the county in which it is situated and that the largest labor force and income group in the county is composed of industrial workers. Yet, it is asserted, no leaders of employee groups have been interviewed. H & G C responds, as it did in reply to a pre-designation inquiry from the Commission, that the industry in that area is not unionized so that there are no union leaders to consult, although it does show, by an amendment, that it interviewed three officers of unions of employees in two non-industrial activities. H & G C also, by amendment, supplements its survey to show that in December 1974, officers or managers of a number of industries in the area were interviewed. Viewing H & G C's showing in terms of Question and Answer 13(a) of the Primer,[6] the Board must conclude that there may be deficiencies which require the addition of an issue. The Commission states as follows in its answer to Question 13(a):

> . . . Groups with the greatest problems may be the least organized and have the fewest recognized spokesmen. Therefore, additional efforts may be necessary to identify their leaders so as to establish a dialogue with such groups and better ascertain their problems.

H & G C cannot satisfy the obligation imposed on it by the *Primer*, as it attempted to in its latest amendment, by interviewing persons in management positions in the various industrial concerns in its service area. The survey still lacks contacts with leaders among the employees of any of these organizations. By H & G C's own demographic showing, these persons constitute a significant groups, and by failing to interview representatives of this group, its ascertainment efforts are fatally defective, necessitating the specification of an issue. "Voice of Dixie, Inc.," 45 FCC 2d 1027, 29 RR 2d 1127, reconsideration denied 47 FCC 2d 526, 30 RR 2d 851 (1974); "Folkways Broadcasting Company, Inc.," 48 FCC 2d 723, RR 2d (1974).

5. While H & G C has made some effort to correlate its ascertained needs with its proposed programming, it has apparently failed to do this in a way to satisfy the requirements of the "Primer," and, therefore, petitioner's contention that this is an additional reason for specifying an ascertainment issue is correct. When H & G C revised its *Suburban* showing in an amendment filed May 2, 1974, it listed a series of programs, with their broadcast times, but failed to state which programs would treat which ascertained needs or problems. Responding to the instant petition to enlarge, one part of the most recent amendment attempts to correct this deficiency but fails to do so. The "Primer,"[6] in Question and Answer 29, provides that an applicant "should give the description, and anticipated time segment, duration and frequency of broadcast of the program, or program series, and the community problem or problems to be treated by it." The Board is able to identify four and one-half hours per week of programming purportedly designed to deal with specific problems, but of this total, all but one hour and fifteen minutes is directed to providing "more spiritual guidance" which was one of twenty-one needs and problems identified in H & G C's survey. Although several other programs, with the problems they will treat, are listed, no time segment and frequency can be found; in that category are the "Woman's Club Program" (which will be for 15 minutes once or twice a month), the Representative G. V. Montgomery program, and the "State College Program." The one hour and fifteen minutes a week that is regularly scheduled will deal with six or seven of the twenty-one ascertained problems. Thus, an issue must be added on this ground as well as that referred to in paragraph 4, *supra*. See "Southeast Arkansas Radio, Inc.," 47 FCC 2d 835, 30 RR 2d 769 (1974); "Azalea Corp.," 38 FCC 2d 95, 25 RR 2d 975 (1972).

6. Accordingly, *it is ordered*, That the motion to enlarge issues, filed on December 11, 1974, by Melvin Pulley, tr/as Philadelphia Broadcasting Company IS GRANTED, and that the issues herein are enlarged by addition of the following:

> To determine the efforts made by H & G.C., Inc. to ascertain the problems of the community to be served and the means by which the applicant proposes to meet these problems.

7. *It is further ordered*, That the burdens of proceeding and proof under the issue added herein SHALL BE on H & G C., Inc.

Adopted: February 12, 1975.

Released: February 19, 1975.

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

[FR Doc.75-5119 Filed 2-25-75;8:45 am]

[FCC 75R-71; Docket Nos. 20219, 20220; File Nos. BPH-8560, BPH-8663]

MELVIN PULLEY AND H & G. C. INC.

Construction Permits

In re Applications of Melvin Pulley, tr/as Philadelphia Broadcasting Co., Philadelphia, Mississippi, and H & G. C., Inc., Philadelphia, Mississippi. For construction permits.

By the Review Board, Board Member Zias absent.

1. Before the Board for consideration are a motion and further motion to enlarge issues, filed December 4 and 11, 1974, respectively, by H & G. C., Inc. (H & G. C.), seeking inter alia, the addition of financial qualifications, misrepresentation, "Suburban," Rule 1.65 and site availability/misrepresentation issues, against Melvin Pulley tr/as Philadelphia Broadcasting Co. (Pulley).[1]

2. With respect to the first request, it is the Board's view that H & G. C.'s allegations fail to raise a substantial question as to Pulley's financial qualifications. Thus, although less than half of

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[1] The pleadings before the Board are: (a) Pulley's motion to enlarge, filed December 11, 1974; (b) the Broadcast Bureau's comments, filed on December 26, 1974; and (c) an opposition filed by H & G. C. on January 3, 1975.

[2] *Primer on Ascertainment of Community Problems of Broadcast Applicants*, 27 FCC 2d 650, 658.

[3] *Ibid.*, p. 663.

[4] The president of H & G. C. is the licensee of WHOC.

[5] *Ibid*, p. 666.

[6] *Ibid*, p. 675.

the amount of savings relied upon in Pulley's application is now available,[2] the applicant has acquired a bank loan commitment, which is sufficient in amount to cover this reduction and provide a surplus of funds over and above the amount required for the construction and operation of its proposal.[3] In this connection, H & G. C.'s contentions concerning the availability of the $50,000 bank loan from the People's Bank of Mississippi must be rejected. As noted by the Bureau, the bank letter, although stating at one point that the bank "would consider most favorably" a $50,000 commitment, provides the information called for by Form 301, including the amount of the loan, terms of repayment, interest rate, collateral required, as well as specifics concerning a moratorium on principal and interest. In view of this documentation and petitioner's failure to allege any extrinsic facts which would cast doubt on the reliability of the letter,[4] there is no basis for assuming that Pulley does not have reasonable assurance of the availability of its proposed loan.

3. In light of Pulley's failure to amend its application to reflect the reduction in available funds in savings [5] upon which it initially proposd to rely and the pendency of its Quitman application, referred to above, the Board will add a Rule 1.65 issue. Contrary to Pulley's argument, the critical consideration is not whether the applicant actually continued to have available the aggregate amount of funds represented to the Commission, but, whether the applicant kept the Commission timely informed of significant changes in its financial proposal. "Cf. St. Cross Broadcasting, Inc.," 39 FCC 2d 514, 26 RR 2d 941 (1973). Thus, although the applicant represented in its November 1, 1973, Quitman application that it had $25,000 rather than $50,000 in savings, it did not report this substantial change in this proceeding, nor did it inform the Commission of its acquisition of a $50,000 bank loan commitment until two months later on January 30, 1974. More important, however, is the applicant's failure to amend its application to reflect its application for a FM facility in Quitman, particularly in light of the fact that Pulley amended its application in other respects on four occasions subsequent to filing the Quitman application. As a related matter, the Board will deny the request for a misrepresentation issue. Petitioner's allegation that Pulley misrepresented the amount of savings it possessed at the time it filed the instant application is totally without foundation and, as such, must be regarded as speculation and surmise.

4. H & G C's allegations also serve to raise a substantial question as to whether Pulley complied with the requirements of the Commission's "Primer on the Ascertainment of Community Problems by Broadcast Applicants," 27 FCC 2d 650, 21 RR 2d 1507 (1971), in four major respects. First, the applicant's demographic showing does not appear to be sufficiently specific with respect to organizations, activities or other factors which would readily distinguish Philadelphia from any other community.[6] The applicant's generality of description, coupled with Pulley's inaccurate use of population figures derived from the U.S. Census,[7] which is the only specified source of demographic information, cast sufficient doubt upon Pulley's assessment of its proposed community of license to draw its "Suburban" efforts into question. See "Media, Inc.," 41 FCC 2d 30, 27 RR 2d 1077 (1973), pet. for rev. den. FCC 74–767, released July 16, 1974. In any event, even assuming that Pulley'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. Thus, it is of critical importance that although Pulley stresses the significance of industry and agriculture within its proposed service area, it has not interviewed leaders of these concededly important groups. [8] [9] As a related matter, Pulley has not shown that a significant number of its community leader surveys were in fact made with leaders who are representative of the significant groups comprising the community. For example, a consultation with a secretary employed by one of the major industrial firms in Philadelphia cannot be regarded as an adequate subsitute for an interview with a management-level representative of the significant employers in the city. Finally, as noted by H & G C and the Bureau, there is no indication as to who conducted Pulley's survey of the general public, as required by the "Primer." Accordingly, a "Suburban" issue will be added.

5. In the Board's view, H & G C has raised substantial questions as to the availability of Pulley's proposed antenna site and the representations of the applicant with respect to the site. The petitioner has submitted an affidavit executed by an engineer describing the precise coordinate description of the proposed site and an affidavit of owners of land, which matches that description, who state that they have signed no option, nor granted an easement to anyone for a radio antenna tower installation on their land. Pulley's response does not serve to counter these affidavits. We first note that, although an applicant need not have a binding agreement or absolute assurance of the availability of a site, it must show reasonable assurance of availability, rather than mere possibility that the site will be available.[10] Given this standard, Pulley's argument that the narrow language employed in the landowners' affidavit does not foreclose the possibility of other types of agreement, such as an oral option, clearly does not constitute an appropriate showing. A misrepresentation issue will also be added. The specification of a site is an implied representation that an applicant has obtained reasonable assurance that the site will be available, and a total failure to inquire as to actual availability is inconsistent with such a representation.[11] Here, Pulley has failed to allege that it approached the owners of the land which is apparently proposed as an antenna site,[12] let alone received reasonable assurance that the owners would be favorably disposed toward entering into some form of agreement.

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[1] Other related pleadings before the Board for consideration are: (a) Broadcast Bureau's comments on motion to enlarge issues, filed December 18, 1974; (b) opposition, filed January 3, 1975, by Pulley; (c) reply, filed January 15, 1975, by H & G C and (d) Broadcast Bureau's comments on further motion to enlarge issues, filed December 26, 1974.

[2] In its application, filed October 15, 1973, Pulley stated that it had $50,000 in savings available to it; two weeks later, on November 1, 1973, the applicant indicated that it had $25,000 in savings in its Quitman, Mississippi, FM application. Now, in an attachment to its opposition, Pulley indicates that it has approximately $17,000 in savings.

[3] The reduction in savings to some $17,000 does not affect Pulley's financial capability to construct and operate both its instant proposal and its proposal for Quitman, Mississippi. Thus, relying on this reduced amount of savings, the applicant will, nevertheless, have available funds in the approximate amount of $132,000 to meet total costs of some $130,000 for the two proposals.

[4] Compare *RKO General, Inc.*, 48 FCC 2d 397, 30 RR 2d 1691 (1974) in which corroborating testimony of an officer of the proposed institution indicated that a bank letter was no more than an "expression of interest." Also compare *Parkell Broadcasting, Inc.*, Mimeo No. 45507, —— FCC 2d ——, released January 27, 1975.

[5] Pulley's argument that the reduction in savings actually represents reinvestment of funds is unsubstantiated. In any event, assuming that Pulley were to reply on these reinvestment funds, the applicant would be required to show the value and liquidity of the newly-purchased assets.

[6] Rather, Pulley states in its ascertainment showing that . . . "Significant groups are relatively few, particularly in the light of the limited population [approximately 7000] of Philadelphia . . .".

[7] According to H & G C's unrebutted allegations, Pulley erred in describing the racial breakdown of its community by as much as nearly 6 percent with respect to the black population and 8 percent with respect to Indian population.

[8] 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); *A. V. Bamford*, ____ FCC 2d ____, 31 RR 2d 790 (1974).

[9] In contrast, H & G C has not shown that women and student leaders comprise significant groups within the community. See Q. and A. 10 of the *Primer, supra*.

[10] See *William F. Wallace*, —— FCC 2d ——, 32 RR 2d 105 (1974); *Marvin C. Hanz*, 21 FCC 2d 420, 18 RR 2d 310 (1970); *El Camino Broadcasting Corp.*, 12 FCC 2d 25, 12 RR 2d 720 (1968).

[11] See *Lake Erie Broadcasting Co.*, 31 FCC 2d 45, 22 RR 2d 647 (1971); *Marbro Broadcasting Co.*, 4 FCC 2d 290, 8 RR 2d 51 (1966).

[12] In this connection, we note that Pulley has not attempted to precisely describe the site it is proposing; thus, the applicant argues both that the landowners approached by H & G C might be willing to enter into negotiations, but that, in any event, another adjacent landowner has indicated that he would be willing to sell property to Pulley in the event it were granted a construction permit. However, this latter argument is based on an affidavit executed by Pulley, rather than the landowner

6. Finally, H & G C's request for an issue which is contingent upon the addition of misrepresentation and abuse of process issues against Pulley in the Quitman, Mississippi proceeding will be denied, since the Board has recently denied the requests in the Quitman proceeding which are the basis of the instant requests. See *A. C. Elliot, Jr.*, FCC 75R-41, released January 28, 1975, and FCC 75R-48, released February 10, 1975.

7. Accordingly, *it is ordered*, That the motion to enlarge issues and the further motion to enlarge issues, filed December 4 and 11, 1974, by H & G C., Inc. ARE GRANTED to the extent indicated herein, and ARE DENIED in all other respects.

8. *It is further ordered*, That the issues in this proceeding ARE ENLARGED to include the following:

1. To determine whether Melvin Pulley tr/as Philadelphia Broadcasting Company has failed to comply with the provisions of Section 1.65 of the Commission's Rules by not reporting substantial changes in its liquid assets and interests in other broadcast applications, and if so, to determine the effect of such noncompliance on the applicant's basic or comparative qualifications to be a Commission licensee.

2. To determine whether Melvin Pulley tr/as Philadelphia Broadcasting Company has ascertained the needs and interests of its proposed service area.

3. To determine whether Melvin Pulley tr/as Philadelphia Broadcasting Company has reasonable assurance of the availability of its proposed transmitter site.

4. To determine whether Melvin Pulley tr/as Philadelphia Broadcasting Company made a willful misrepresentation to the Commission by proposing a site without having made adequate inquiries as to its availability, and, if so, the effect upon that applicant's basic and/or comparative qualifications to be a broadcast licensee.

9. *It is further ordered*, That the burden of proceeding with the introduction of evidence under issues 1 and 4 shall be on H & G C, Inc.; that the burden of proceeding with the introduction of evidence under Issues 2 and 3 shall be on Melvin Pulley, tr/as Philadelphia Broadcasting Company; and the burden of proof under all issues shall be on Melvin Pulley, tr/as Philadelphia Broadcasting Company.

Adopted: February 18, 1975.

Released: February 24, 1975.

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

[FR Doc.75-5120 Filed 2-25-75;8:45 am]

[FCC 75-181; Docket No. 18875]

OVERSEAS COMMUNICATION

Further Notice of Inquiry

1. By notice of inquiry, released June 16, 1970, the Commission instituted formal proceedings to inquire into the policy to be followed in future licensing of facilities for overseas communications. (FCC Docket No. 18875). This proceeding primarily concerned the development of a policy with respect to the nature and timing of additional facilities to be used in the now current decade for communications between the United States and overseas points. It was anticipated that the enunciation of a licensing policy covering a future period would reduce uncertainty and establish a firm basis for planning communication facilities. On June 25, 1971, the Commission issued a Statement of Policy and Guidelines for Overseas Communications, 30 F.C.C. 2d 571, in which a policy was delineated regarding the future licensing of transatlantic facilities for the 1971-80 decade.[1]

2. At the outset, we note that the pace of technological progress in overseas communications has increased rapidly in recent years with indications of extensive further development. Specifically, we note significant improvements in long distance submarine cables as well as technological advances in satellite communications and the increasing necessity not only for insuring that the totality of facilities is adequate, but also for achieving the combination of facilities that will best serve the public interest. With the increasing complexity of communications systems and the continuing growth in communication requirements including new services, a requirement exists for continuing Commission review of relevant information for the purpose of establishing and refining where necessary principles and guidelines under which planning and implementation of needed communication facilities may proceed on a timely basis. Therefore, it appears necessary and desirable to reopen Docket No. 18875 in order to initiate further inquiry into this subject. We recognize that the United States carriers in cooperation with their foreign correspondents and Comsat, with its responsibilities in INTELSAT, are continually reviewing the adequacy of existing facilities and the desirability and need to supplement and replace such facilities. However, the Commission has the responsibility and obligations to establish sound policies and guidelines based upon public interest requirements to insure that a well planned, coordinated, reliable and efficient telecommunications system is available to the public at reasonable rates. In carrying out our responsibilities regarding international communications we are keenly mindful of the fact that the United States is a party of interest in a broad community of many countries that also have concerns and responsibilities with regard to international communication systems which provide services among countries. It is therefore imperative that the Commission develop, adopt and review its policies regarding facilities required to serve U.S. needs in light of the international nature of such facilities and do so after full consideration of all factors involved and in consultation with the responsible entities in other countries.

3. We anticipate this proceeding to be an evolving process, looking toward the continuing refinement of the Commission's principles and guidelines for future facilities planning. The specific purpose of the present Notice of Inquiry is to obtain necessary information and data and solicit comments and/or recommendations concerning those factors which should be addressed and studied in order to refine and more precisely formulate these principles and guidelines. We have chosen to focus our efforts initially on the transatlantic route because of the high concentration of traffic and consequent large investments in facilities now serving and required in the future to serve the important North American-European communications requirements. However, principles and guidelines for the transatlantic route should be beneficial in formulating policies applicable to other regions.

4. The initial phase of this further inquiry will be concerned primarily with the collection of information concerning the future requirements for telecommunications in the North Atlantic, a review of existing and authorized facilities, and a discussion and analysis of those factors which should be considered in establishing principles and guidelines for the planning and implementation of future facilities. This process will include discussion, submission of written information, studies, reports, and written comments. We plan in particular to conduct a series of meetings open to all United States interested parties for the purpose of identifying, discussing and analyzing information on service requirements and alternative means for meeting such requirements. We also envision a requirement to consult from time to time with interested foreign entities for the purpose of exchanging information and discussing those factors deemed necessary in formulating our policies. In this regard we note that similar meetings have been held in the past with European and Canadian authorities, with the most recent conference held in Munich in October 1974. Such meetings have been very useful and are required for the Commission to carry out its regulatory responsibilities. In addition, by keeping each other advised of future needs and seeking to develop mutual understanding of the basic principles governing fulfillment of those

[1] The Commission in this statement of policy and guidelines set forth the following criteria for formulating planning requirements in the 1971-80 decade.

(a) The public interest requires that we promote the continued development of both cable and satellite technologies and their most effective and timely applications to meet future requirements for international communications services;

(b) The public interest also requires that we authorize the most modern and effective facilities available via both cable and satellite technology with due regard for efficiency, economy, diversity and redundancy.

(c) The public interest and due regard for the concerns of the Administrations which operate the foreign end of cables require that care should be taken to minimize the need for imposing artificial formulae to govern the distribution of traffic among available media;

(d) The public interest requires that the economies available from each advance in technology be reflected in charges for service.

needs, we believe further meetings can play a significant role in ensuring that planning both in the United States and in the other countries concerned will result in the establishment of adequate and economic facilities on a timely basis.

5. We expect to focus, but not limit our inquiry on the general topics of traffic requirements; methods of traffic forecasting; reliability of service; service standards; timing, size, and proper mix of the types of facilities foreseen to be available. We also plan to review the state of the technology, expected service life of facilities, service outages associated with both cable and satellite facilities, and cost studies and comparison of those types of facilities envisioned to be available in the late 1970's and early 1980's.

6. In order to insure a timely and orderly commencement of this Inquiry we hereby give notice to all interested parties of a meeting to be held at the Commission office in Washington, D.C. on March 11, 1975 at 10 a.m., for the purpose of discussing in more detail the subject matter of the Inquiry and to decide upon the most appropriate means of obtaining the necessary data. Any party desiring to participate in this phase of the Inquiry should file notice to that effect with the Commission no later than March 6, 1975. In addition, although the scheduled meeting is open to the public, we request that those planning to attend notify the Chief, Common Carrier Bureau of the Commission by March 6, 1975. It should be noted that this proceeding is not a rule making proceeding and will not directly result in changes in, or addition to, Commission Rules and Regulations. However, as indicated above, it is anticipated that one or more Statements of Policy will be issued, and the proceeding may also lead to proposals for modification of the Commission's rules and regulations. During the course of the Inquiry, we will provide all interested parties at appropriate times the opportunity to file written positions concerning the matters involved. We also emphasize that this Inquiry will not specifically consider individual applications for particular facilities.

7. Authority for the initiation of the Inquiry is contained in sections 4(i), 214, and 413 of the Communications Act of 1934, as amended, and section 201(c) of the Communications Satellite Act of 1962.

Adopted: February 12, 1975.

Released: February 25, 1975.

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

[FR Doc.75-5121 Filed 2-25-75;8:45 am]

FEDERAL HOME LOAN BANK BOARD

GREAT WESTERN FINANCIAL CORP.

Permission To Purchase Certain Assets of Six Rivers Savings and Loan Association

FEBRUARY 21, 1975.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Great Western Financial Corporation, Beverly Hills, California, a unitary savings and loan holding company, for approval of acquisition of certain assets of the Six Rivers Savings and Loan Association, Eureka, California, an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(3)), and § 584.4 of the Regulations for Savings and Loan Holding Companies, by Great Western Savings and Loan Association, an insured subsidiary of Great Western Financial, said acquisition to be effected by the assumption of savings accounts and other liabilities and the payment of cash for certain specified assets. Comments on the proposed acquisition should be submitted to the Director, Holding Companies Section, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before March 28, 1975.

[SEAL] GRENVILLE L. MILLARD, Jr.,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.75-5105 Filed 2-25-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. RP74-94-2]

ARKANSAS LOUISIANA GAS CO.

Order Denying Petition

FEBRUARY 13, 1975.

On December 16, 1974, Riceland Foods, Inc. (Riceland), filed a Petition for Extraordinary Relief from the operation of the currently effective curtailment plan of Arkansas Louisiana Gas Company (Arkla). Riceland is an industrial customer of Arkla which operates two soybean processing plants in Stuttgart and Helena, Arkansas. It alleges that the daily gas requirements at these two plants are 5,750 Mcf and 4,250 Mcf, respectively, and that the gas is used primarily in the processing of soybeans into soybean meal and vegetable oils. Riceland asserts in its petition that relief from curtailment by Arkla is necessary to forestall shutdowns at the plant which would result in employee layoffs and the possibility of loss of foreign and domestic markets because of lack of reliability in production and processing.

Specifically, Riceland requests that all its gas requirements at both plants be placed in Priority 2 of Arkla's curtailment plan until such time as Riceland is able to complete installation of alternate fuel capabilities at each plant. Installation of the necessary facilities at the Stuttgart plant is scheduled for completion in December, 1975 while the Helena plant should have its equipment in place and operational by November, 1975. Currently, a major portion of Riceland's gas requirements are classified as Priority 4 volumes.[1]

On January 29, 1975 Arkla filed a response to Riceland's petition as well as a petition to intervene in the proceeding. In the response, Arkla took no position regarding the merits of Riceland's petition but submitted data indicating Riceland's requested volumes were in excess of service agreement volumes and that only a portion of Riceland's daily requirements might be subjected to curtailment for a total of 15 days during the current winter heating season. There was no indication that Arkla was curtailing Riceland at the time of Arkla's response. Indeed, neither did Riceland in its petition indicate that it is currently being curtailed.

Arkla's filing indicated that Riceland's total entitlements for both plants on a peak day are 7,180 Mcf of which 2,430 is categorized as Priority 2 gas. This amount is the quantity Riceland uses for soybean drying processes. The remaining volumes, 4,750 Mcf per day, is that amount Riceland uses for boiler fuel in both plants and is consequently classified in Priority 4. In addition, the average daily usage at both plants during the three year base period utilized by Arkla, which ended in September of 1971, totalled 5,465 Mcf.

It is clear that Priority 5 curtailments will not affect the Riceland operation at all this winter. It is also readily apparent that Priority 4 curtailments will not be excessive since, as pointed out above, Arkla has projected only 15 days of curtailment this winter in that category. There is no indication in Arkla's filing if curtailment in Priority 4 in those days will be total, but the Commission is of the opinion that even if that was the case, relief would still not be warranted. In addition, there is absolutely no information in Arkla's filing which indicates any Priority 2 curtailments this winter.

As a result of Arkla's data submission, we find that Riceland's Priority 2 volumes are in no danger of being presently curtailed and its Priority 4 volumes may only be subject to intermittent curtailment. In such a situation, however, there would be no loss of property such as spoilage of soybeans. In view of this, the Commission believes that Riceland is not subjected to undue risks and that the present filing is premature and should be rejected without prejudice. Consequently if curtailments on Arkla's system reach the point where Riceland believes it is entitled to relief, it is free to so plead at a later date before this Commission.

Finally, Arkla has requested intervention in the instant docket. Because of its status as the supplier of natural gas to Riceland, Arkla's participation herein may be in the public interest, and thus we will grant intervention.

The Commission finds. (1) Riceland's petition for extraordinary relief is prematurely submitted because it is not currently suffering curtailment of volumes from Arkla.

(2) The participation of Arkla in this proceeding may be in the public interest.

[1] Firm industrial requirements for boiler fuel use at less than 3,000 Mcf per day, but more than 1500 Mcf per day, where alternate fuel capabilities can meet such requirements (see Opinion No. 643-A).

The Commission orders. (A) Riceland's petition for extraordinary relief is hereby denied without prejudice.

(B) The petitioner hereinabove set forth is permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene, and, *Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

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

[FR Doc.75-5035 Filed 2-25-75;8:45 am]

[Docket No. RP75-32]

ARKANSAS LOUISIANA GAS CO.

Accepting for Filing and Suspending Tendered Tariff Sheet, Granting Request for Waiver, Providing for Hearing, Granting Interventions and Establishing Procedures

FEBRUARY 13, 1975.

On November 5, 1974, Arkansas Louisiana Gas Company (Arkla) tendered for filing an amended Rate Schedule XT-17, which schedule is applicable solely to transportation of gas by Arkla for Reynolds Metals Company (Reynolds).[1] The proposed amendments would increase the rate charged for the transportation service rendered as well as modify certain conditions of such service. Arkla requested that the proposed changes be permitted to become effective as of January 1, 1975.

By letter dated December 31, 1974, the Commission Secretary, by direction of the Commission, rejected Arkla's filing because it was "inconsistent with § 154.22 of the Commission's regulations, which requires prior issuance of a certificate covering the proposed changes of service." The letter added that such rejection was without prejudice to Arkla's right to file a rate increase for service under Rate Schedule XT-17 either under existing terms and conditions of service or under modified conditions of service after such modifications have received certificate authorization.

On January 14, 1975, Arkla tendered for filing a revised tariff sheet[2] which would increase the rate for transportation service for Reynolds from 4.5 cents per Mcf to 18.95 cents per Mcf. This filing is based on existing terms and conditions of service, and proposes only to increase the rate to Reynolds. Based on volumes transported during the 12 months ended October 31, 1974, the proposed rate would increase annual revenues from such service from $273,877 to $1,153,326. Consistent with its earlier filing, Arkla requests that the proposed rate be permitted to become effective as of January 1, 1975.

In support of the proposed 18.95 cents per Mcf rate, Arkla states that Arkla and Reynolds "intended that whatever rate is approved by the Commission for the 5-year period beginning January 1, 1975, will remain constant for the full 5 years." Accordingly, Arkla contends, in order to derive a compensatory rate, it was necessary to take into account not only the current cost of service but also the fact that the rate will remain fixed for five years. Therefore, the proposed revised tariff sheet included in Arkla's filing "projects the actual cost to the median year 1977 to get a flat rate to be effective over the full five years."[3] Such projection was made on the assumption that Arkla's cost to provide the transportation service will increase by ten percent annually for the years 1976 and 1977.

Notice of Arkla's January 14, 1975, filing was issued on January 24, 1975, with comments, protests, or petitions to intervene due on or before February 10, 1975. In response to such notice, Reynolds Metals Company (Reynolds) timely filed a Petition to Intervene in this proceeding. Good cause appearing, said petition shall be granted, as hereinafter ordered.

As noted above, Arkla has requested that the proposed increase be permitted to become effective as of January 1, 1975. Accordingly, Arkla asks that the Commission waive its 30-day prior notice requirement for rate increase filings.[4] In support of this request, Arkla states that the rate proposed in its January 14, 1975, filing is the same rate the Company proposed in its November 5, 1974, filing, which was noticed by the Commission on November 18, 1974. Therefore, Arkla concludes, because the public was notified of this rate increase almost two months ago,[5] the purpose of the 30-day notice requirement has been served.

We find that good cause does exist to waive § 154.22 of the Commission's Regulations. However, for the reasons stated below, we find that the proposed rate should be suspended for five months from January 1, 1975, to become effective June 1, 1975.

Based on our review of Arkla's proposed rate increase, including the documents, information and studies submitted therewith as required by the Commission's Regulations, we find that the requested increase may be excessive or otherwise unlawful under the Natural Gas Act. Accordingly, the proposed increase shall be accepted for filing, as hereinafter conditioned, suspended for the full statutory period, and set for hearing.

We note that Arkla has included in the tariff sheet proposed herein approximately $9,885,000 of Construction Work in Progress (CWIP) as a rate base item. While there is currently pending a proposed rulemaking which, if adopted, would permit inclusion in rate base of certain amounts expended for CWIP,[6] our presently-existing regulations specifically exclude from rate base plant in process of construction.[7] Therefore, we shall permit said amounts for CWIP to be included in Arkla's filing; *provided, however,* That if the facilities presently represented by such CWIP amounts are not in service on the date the proposed rates take effect, subject to refund, Arkla shall file substitute tariff sheets including rates which reflect only those facilities which are in service as of that date.

The Commission finds. (1) First Revised Sheet No. 5 of Arkla's FPC Gas Tariff, First Revised Volume No. 2, tendered by Arkla on January 14, 1975, should be accepted for filing as hereinafter conditioned, and suspended as hereinafter ordered.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Arkla's FPC Gas Tariff, as proposed to be amended in Docket No. RP75-32.

(3) Good cause exists to grant Arkla's request for waiver of § 154.22 of the Commission's Regulations, as discussed hereinabove.

(4) Participation of Reynolds Metals Company in this proceeding may be in the public interest, provided that such participation is limited as hereinafter ordered.

The Commission orders. (A) The tariff sheet proffered by Arkla in Docket No. RP75-32 is accepted for filing and suspended for the full statutory period of five months until June 1, 1975, or until such times as it is made effective in the manner provided by the Natural Gas Act, subject to refund; *Provided, however,* That Arkla shall file substitute tariff sheets to become effective June 1, 1975, reflecting exclusion of the CWIP costs included in its proposed rates which are associated with facilities which have not been placed in service as of June 1, 1975.

[1] As amended, Rate Schedule XT-17 consists of First Revised Sheet Nos. 2 through 21 and Original Sheet Nos. 21-A, 21-B, and 21-C of Arkla's FPC Gas Tariff, Original Volume No. 2. These proposed tariff sheets are a complete restatement of the contract between the parties reflecting amendments to said contract made July 1, 1974.

[2] First Revised Sheet No. 5, superseding Original Sheet No. 5 of Arkla's FPC Gas Tariff, First Revised Volume No. 2.

[3] "Statement of the Nature, Reasons and Basis for the Proposed Change", at page 5.

[4] See § 154.22 of the Commission's Regulations.

[5] As Arkla correctly states, no comments, protests or petitions to intervene have been filed in response to the November 18, 1974, notice. However, as previously noted, Reynolds Metals Company timely filed a Petition to Intervene in response to the notice or Arkla's January 14, 1975, filing.

[6] See "Notice of Proposed Rulemaking", issued November 15, 1974, in Docket No. RM 75-13.

[7] See § 154.63(f) (Schedule C-1) of the Commission's Regulations.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8 and 15 thereof, and the Commission's Rules and Regulations, a hearing shall be held to determine the justness and reasonableness of the rates proposed in Arkla's January 14, 1975 filing.

(C) On or before April 15, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Prepared testimony and exhibits of intervenors shall be served on or before April 29, 1975. Company rebuttal shall be served May 13, 1975. Cross-examination of the evidence shall commence on May 28, 1975, at 10 a.m., EDT in a hearing room at the Federal Power Commission, Washington, D.C. 20426.

(D) Arkla's request for waiver of § 154.22 of the Commission's Regulations is hereby granted.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe necessary procedures not provided for by this order, and shall otherwise conduct the hearing in accordance with the terms of this order and the Commission's Rules and Regulations.

(F) Reynolds Metals Company is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene, and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

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

[FR Doc.75-5033 Filed 2-25-75;8:45 am]

[Docket No. E-9254]

BOSTON EDISON CO.

Rate Schedule Filing

FEBRUARY 13, 1975.

Take notice that on February 3, 1975, Boston Edison Company (Edison) tendered for filing an initial rate schedule between itself and the Electric Light Department of Cambridge, Massachusetts (Cambridge). The rate schedule sets forth the payment provisions for Cambridge's use of Edison's Substation #509. Edison requests that the Commission allow the rate schedule to become effective as of March 1, 1975, the date upon which support payments by Cambridge will commence.

Any person desiring to be heard or to make any protest with reference to the subject matter of this Notice, 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 or 1.10). All such petitions or protests should be filed on or before February 28, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the documents referred to herein are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-5039 Filed 2-25-75;8:45 am]

[Docket No. RP74-82]

COLUMBIA GAS TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

FEBRUARY 13, 1975.

Take notice that Columbia Gas Transmission Corporation (Columbia), on January 31, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1.

The revised tariff sheet, proposed to be effective March 3, 1975, reflects an increase in the overall level of Columbia's rates to provide additional annual revenue of $6,500,317. Such increase is necessary to reflect the inclusion in rate base of the actual balance in Account 166 (Advance Payments for Gas) as of December 31, 1974, adjusted to include an additional advance payment to British Petroleum Oil Corporation of $55 million.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before February 26, 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.75-5040 Filed 2-25-75;8:45 am]

[Docket No. RP75-47-3]

COLUMBIA GAS TRANSMISSION CORP. (WEST OHIO GAS COMPANY AND THE OHIO PUBLIC UTILITIES COMMISSION)

Order Denying Relief, Denying Motion To Dismiss, Permitting Interventions, and Establishing Hearing Procedures

FEBRUARY 12, 1975.

On December 27, 1974, as supplemented January 7, 1975, Teledyne Ohio Steel (Teledyne), Lima, Ohio, filed a petition, pursuant to § 1.7(b) of the Commission's rules of practice and procedure, seeking relief from the currently effective curtailment procedures of Columbia Gas Transmission Corporation (Columbia Transmission) and an emergency priority allocation of natural gas to become effective as soon as possible and to remain in effect until June 1, 1975. Teledyne requests the following emergency priority allocation of natural gas: December, 1974—86,104 Mcf; January, 1975—98,608 Mcf; February, 1975—103,074 Mcf; March, 1975—112,050 Mcf; April, 1975—89,475 Mcf; and May, 1975—82,388 Mcf.

In support of its petition for a grant of extraordinary relief Teledyne states that it is engaged in manufacturing rolls for rolling mills in the steel and nonferrous industries and sells its product to more than 150 plants located throughout the United States. At its Lima facility it operates approximately 100 or more gas furnaces in the production of rolling mill rolls. Such production requires a continuous process, including the heat treating operation, for a period of time ranging up to four and one-half weeks. Teledyne asserts that it has no realistic alternate fuel supply available for most of the furnaces now utilizing natural gas. It claims to have made expenditures in excess of $1,000,000 since 1970 for the purchase of new, more efficient gas utilization equipment and to have renovated all remaining furnaces for more efficient operation with resulting decreased gas consumption.

Teledyne purchases its natural gas supply from West Ohio Gas Company (West Ohio), whose principal supplier is Columbia Transmission. West Ohio notified Teledyne that effective December 20, 1974, it would sustain a fifty percent curtailment of its natural gas allocation, a level of curtailment at which Teledyne claims that it cannot continue operations.

On December 18, 1974, Teledyne requested an emergency priority allocation of natural gas from the Public Utilities Commission of Ohio, but no action has been taken upon that request.

Pursuant to Notice published in the FEDERAL REGISTER, petitions for and notices of intervention were due on or before January 25, 1975. Timely petitions for leave to intervene were filed by the Columbia Gas Distribution Companies,[1] General Motors Corporation, The Dayton Power and Light Company, and West Ohio. The Ohio Public Utilities Commission filed a timely notice of intervention,

and Columbia Transmission filed a timely petition for leave to intervene, motion for dismissal and/or request for hearing.

In its pleading which includes a motion to dismiss, Columbia Transmission urges that this Commission is not the appropriate forum for adjudicating a request for special relief by an indirect customer of an interstate pipeline such as Teledyne, and that Teledyne has not exhausted its administrative remedy before the Public Utilities Commission of Ohio.

In a telegram dated December 31, 1974, West, Ohio, Teledyne's distributor, requested leave to intervene herein in support of Teledyne's petition for special relief, and the Ohio Public Utilities Commission has filed a notice of intervention in regard to that petition in order to participate in any proceeding before this Commission. In these circumstances, we deem it appropriate to construe West Ohio's telegram as a request for extraordinary relief on behalf of Teledyne, thus rendering invalid Columbia Transmission's lack of jurisdiction argument. The Commission staff already has requested West Ohio to furnish the additional information required of distributors by Commission Order No. 467-C as well as to conform its aforementioned petition to certain formal requirements of the Commission's Rules of Practice and Procedure. In addition, we request the Ohio Commission, which has shown a desire for active participation in this matter, to direct West Ohio to provide immediately the information referenced in the deficiency telegrams that were sent some time ago by our Staff.

We believe that the factual and legal issues raised by the above-mentioned pleadings require development in an evidentiary hearing. Accordingly, we shall schedule an expedited hearing in this matter. In view of the lack of relevant data with which to evaluate the instant request for immediate extraordinary relief for Teledyne, we must deny the request for such an emergency allocation of natural gas until the necessary factual data are filed.

The Commission finds. (1) Good cause exists to deny without prejudice Teledyne's request for an immediate emergency priority allocation of natural gas, all as set forth above.

(2) Good cause exists to set for public hearing the matters raised by Teledyne's petition for relief from natural gas curtailment and for an emergency priority allocation of natural gas filed December 27, 1974, as supplemented January 7, 1975.

(3) Good cause exists to construe the notice and petition to intervene filed by the Ohio Public Utilities Commission and West Ohio, respectively, as petitions for extraordinary relief filed under § 1.7(b) of our rules and regulations on behalf of Teledyne.

(4) Since West Ohio, Teledyne's natural gas distributor supplier, has requested intervention in support of Teledyne's petition for extraordinary relief, the principal basis for Columbia Transmission's motion for dismissal has been removed; and, accordingly, the motion for dismissal should be denied, and its alternate request for hearing should be granted, as hereinafter ordered.

(5) The participation of the above-named petitioners in this proceeding may be in the public interest.

The Commission orders. (A) Teledyne's request for an immediate emergency priority allocation of natural gas filed on December 27, 1974, as supplemented January 7, 1975, as a part of its petition for extraordinary relief is hereby denied without prejudice.

(B) The notice of intervention by the Ohio Public Utilities Commission and the petition to intervene by West Ohio are hereby construed as petitions for extraordinary relief filed under § 1.7(b) of our rules and regulations on behalf of Teledyne.

(C) Columbia Transmission's motion for dismissal is hereby denied; and its alternative request for hearing is hereby granted.

(D) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on March 6, 1975, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, to determine the issue of whether or not extraordinary relief should be granted to Teledyne as requested.

(E) All parties, including intervenors and Staff, will file their direct evidence and testimony on or before February 25, 1975.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing initiated by this order, and shall conduct such hearing in accordance with the Natural Gas Act, the Commission's Rules and Regulations, and the terms of this order.

(G) The aforementioned petitioners for intervention shall be permitted to intervene in this proceeding, subject to the Commission's rules and regulations; *Provided, however,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any orders entered in this proceeding and *Provided, further,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene.

By the Commission.

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

[FR Doc.75-5030 Filed 2-25-75;8:45 am]

[Docket No. RP75-14]

CONSOLIDATED GAS SUPPLY CORP.

Petition for Rehearing

FEBRUARY 12, 1975.

On September 9, 1974, Consolidated Gas Supply Corporation (Consolidated) tendered for filing certain "Pro Forma" tariff sheets which would permit Consolidated to include in rate base amounts expended for construction work in progress (CWIP). Such treatment would be accorded to any gas supply or gas supply—related project exceeding $10 million in cost and requiring a construction period of more than twelve months. Acceptance by the Commission of Consolidated's proposal would permit the Company to recover in its current rates the cost of capital associated with such construction work. Consolidated does not seek to make the proposed tariff sheets effective prior to approval by the Commission, but requests that a hearing be convened as soon as possible to consider the proposed sheets.

By order issued December 13, 1974, the Commission rejected Consolidated's September 9, 1974, filing because it found such filing to be premature "in light of the 'Proposed Rulemaking' issued in Docket No. RM75-13."[1] This rejection was without prejudice to Consolidated's right to file data, views, comments or suggestions concerning said "Proposed Rulemaking", and without prejudice to Consolidated's right to file such new tariff sheets, if any, as may be appropriate after the Commission has acted on said "Proposed Rulemaking".

On January 13, 1975, Consolidated filed a Petition for Rehearing of the aforementioned December 13, 1974, order. In support of its petition, Consolidated reiterates its contention expressed in the September 9, 1974, filing that "the public interest would be served by undelayed hearing and implementation of Consolidated's pro forma tariff sheets." Consolidated further contends that the Commission had no authority to reject Consolidated's filing as "premature". Finally, Consolidated asserts that the Commission's December 13, 1974, order "makes no finding that Consolidated has failed to meet the procedural requirements of filing . . ." which finding, Consolidated contends, is a prerequisite to summary rejection of a filing by this Commission. For the reasons stated below, we find that Consolidated's contentions are without merit.

The Commission's currently-existing Regulations specifically exclude from rate base plant in process of construction.[2] However, as noted in the December 13, 1974, order in this docket, a "Proposed Rulemaking" is currently pending[3] which, if adopted, would permit in-

[1] Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., and Columbia Gas of West Virginia, Inc.

[1] *Consolidated Gas Supply Corporation,* Docket No. RP75-14, order issued December 13, 1974, at page 2.

[2] See Section 154.63(f) (Statement C) (Schedule C-1).

[3] See "Notice of Proposed Rulemaking" issued November 14, 1974, in Docket No. RM75-13.

clusion in rate base of certain amounts expended for CWIP. It is in this context that we found Consolidated's September 9, 1974, filing to be "premature". Our rejection of such filing was, therefore, based on the premise that the sole purpose of Consolidated's filing was to effectuate a result which is now specifically proscribed by our Regulations. Our authority to reject a proposed filing which contravenes our Regulations is clear.[4] We conclude, therefore, that the Commission acted well within its discretion in rejecting Consolidated's filing. Accordingly, we shall deny Consolidated's Petition for Rehearing.

The Commission finds. Consolidated's Petition for Rehearing filed on January 13, 1975, raises no facts or principles of law which would provide an appropriate basis for modification of the Commission's order of December 13, 1974.

The Commission orders. (A) Consolidated's Petition for Rehearing filed January 13, 1975, is hereby denied.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

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

[FR Doc.75-5041 Filed 2-25-75;8:45 am]

[Docket Nos. RP72-150 (Rate Design), RP73-104, RP73-109 and RP74-57; RP73-109 and RP74-95]

EL PASO NATURAL GAS CO.

Consolidating Proceedings and Extending Procedural Dates

FEBRUARY 13, 1975.

On May 12, 1973, the El Paso Natural Gas Company ("El Paso") tendered for filing copies of Twelfth Revised Sheet No. 10 as part of its FPC Gas Tariff, First Revised Volume No. 3. This filing was assigned Docket No. RP73-109 and constituted a rate increase for El Paso's Northwest Division System customers. On November 25, 1973, El Paso placed these rates into effect subject to refund. By court order, El Paso was divested of the Northwest Division System properties as of January 31, 1974, when it was replaced by the newly-formed Northwest Pipeline Corporation ("Northwest"), an independent pipeline company. Northwest's first proposed rate increase was filed on May 31, 1974, and was allowed to become effective as of December 1, 1974, subject to refund. The January 31, 1974 divestiture effectively divided the refund obligations in Docket No. RP73-109. El Paso's obligation extends from November 25, 1973 through January 31, 1974. Northwest's obligation extends from February 1, 1974, through November 30, 1974.

El Paso's current rate increase proceedings are pending in Docket Nos. RP72-150 (Rate Design), RP73-104, and RP74-57. Northwest's current rate increase proceedings are pending in Docket No. RP74-95.

By joint motion of January 7, 1975, El Paso and Northwest suggest that their respective locked-in periods in Docket No. RP73-109 be consolidated with their respective current rate increase proceedings. Movants emphasize that they do not seek consolidation of El Paso's rate cases with Northwest's rate cases.

Only Staff has filed an answer (out of time) to the joint motion for consolidation of El Paso and Northwest. Staff does not object in substance to the proposed consolidation but conditions its concurrence therewith upon approval by the Commission of an extension of the presently established procedural data in Docket No. RP74-95[1] in order to allow Staff and Northwest time to prepare their respective cases. Finding Staff's request to be reasonable, we will order that the presently established procedural dates be extended, as provided in Ordering Paragraph (C), below, subject to review by the Commission in the event of alleged inconvenience or hardship to the parties concerned.

The Commission finds. (1) Good cause exists to allow staff to file out of time its answer to the joint motion for consolidation filed by El Paso and Northwest.

(2) Good cause exists to consolidate proceedings for purposes of hearing and disposition as provided in Ordering Paragraph (B), below.

(3) Good cause exists to extend the presently established procedural dates in Docket No. RP74-95, as hereinafter provided.

The Commission orders. (A) Permission is granted Staff to file out of time its answer to the joint motion to consolidate proceedings filed by El Paso and Northwest on January 7, 1975.

(B) The following proceedings are hereby consolidated for purposes of hearing and disposition:

(1) That portion of Docket No. RP73-109 which involves consideration of El Paso's refund obligations during the locked-in period from November 25, 1973 through January 31, 1974 with the proceedings in Docket Nos. RP72-150, RP73-104 and RP74-57;

(2) That portion of Docket No. RP73-109 which involves consideration of Northwest's refund obligations during the locked-in period from February 1, 1974 through November 30, 1974, with the proceedings in Docket No. RP74-95.

(C) The procedural dates established in Docket No. RP74-95, now consolidated with Docket No. RP73-109 as provided above, are hereby modified as follows:

April 4, 1975—Northwest's submission of Case-in-Chief.
May 30, 1975—Service of Staff's testimony.
June 13, 1975—Service of Intervenor's testimony.
June 27, 1975—Service of Company's testimony.
July 11, 1975—Hearing.

By the Commission.

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

[FR Doc.75-5037 Filed 2-25-75;8:45 am]

[Docket Nos. G-4769, et al., AR-64-1, et al. and AR61-1, et al.]

EL PASO NATURAL GAS CO.

Report of Refunds Due

FEBRUARY 13, 1975.

Take notice that on November 15, 1974, El Paso Natural Gas Company (El Paso) tendered for filing and acceptance its report of intended disposition of producer-refunds received in compliance with ordering paragraph (E) of the Commission's order denying petition for special relief from refund obligations issued March 18, 1974, as implemented by the Commission's letter order to Phillips Petroleum Company (Phillips) dated September 18, 1974, at Docket No. AR64-1, and ordering paragraph (K)(1) of the Commission's order implementing opinion Nos. 468 and 468-A issued August 9, 1968, at Docket No. AR61-1.

El Paso states the instant report pertains to producer-supplier refunds received and retained by El Paso, aggregating $41,457,426.54, applicable to gas purchased by El Paso for resale in its interstate system. Such aggregate refund amount results from refunds received by El Paso on October 3, 1974, from Phillips in the amount of $41,449,099.97 and other producer refund amounts received by El Paso since January 1, 1973, in the total amount of $8,326.57 and retained pending flow through. El Paso's intended disposition of such amount is consistent with El Paso's obligation to flow through refunds received from its producer-suppliers to its jurisdictional customers, pursuant to the stipulation and agreement dated as of November 1, 1963, approved by Commission order issued December 4, 1963, at Docket Nos. G-4769, et al. Additionally, included in said report is the intended disposition of refunds to certain of El Paso's direct industrial customers whose sales agreements are keyed to the refund obligations to El Paso's jurisdictional customers subject to said Stipulation and Agreement.

El Paso states that it intends to flow through the jurisdictional amount of $35,973,534.85 of such refunds to individual jurisdictional customers in accordance with Article IV of the said Stipulation and Agreement dated as of November 1, 1963. Likewise, El Paso intends to flow through the non-jurisdictional keyed portion thereof, aggregating $2,580,006.68, to its non-jurisdictional keyed customers, who, by contractual agreements are treated in like manner as those foregoing jurisdictional customers

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[4] See, for example, *Municipal Lights Boards of Reading and Wakefield, Massachusetts F.P.C.*, 450 F.2d 1341 (D.C. Cir. 1971), *cert. denied* 405 U.S. 989; *Mississippi River Fuel Corp. v. F.P.C.*, 202 F.2d 899 (CA3, 1953), *cert. dismissed*, 345 U.S. 988; 18 CFR § 1.14 (a)(2).

[1] The presently established procedural dates are those listed in our October 30, 1974, Notice of Extension of Procedural Dates in Docket No. RP74-95.

under the said Stipulation and Agreement. El Paso will retain the remaining non-jurisdictional amount of $2,903,-885.01. Additionally, El Paso will flow through interest accrued on the jurisdiction and non-jurisdictional keyed amount of $8,326.57 of refunds received and retained pending flowthrough in accordance with the Commission's Opinion Nos. 468 and 468–A.

El Paso states copies of the filing were the subject refund amounts to those customers entitled thereto on January 31, 1975, or immediately thereafter, upon receiving Commission approval of the instant report.

El Paso states copies of the filing were served on all of El Paso's interstate transmission system customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before February 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-5029 Filed 2-25-75;8:45 am]

[Docket Nos. RP74-75 and RP74-80]

NORTHERN NATURAL GAS CO.

Order Consolidating Proceedings

FEBRUARY 13, 1975.

On January 15, 1975, Commission staff filed a motion in the above-referenced dockets in which Staff requests the Commission to sever the advance payments issues under consideration in Docket No. RP74–75 therefrom and consolidate them with the Docket No. RP74–80 proceeding, and to extend the presently established procedural dates in Docket No. RP74–80.

Docket No. RP74–75 was created by Commission order of March 22, 1974, in Docket Nos. RP71–107 (Phase II) and RP72–127. The March 22, 1974, order was issued in response to Northern's January 23, 1974, filing of proposed revised tariff sheets, said sheets having been filed pursuant to the Commission's order of January 4, 1974, which approved a settlement in the Docket Nos. RP71–107, RP72–127 proceedings, subject to certain conditions. The order of March 22, 1974, accepted and effectuated without suspension the bulk of Northern's January 23, 1974, filing, excepting only selected advance payments, a list of which was marked Appendix A and attached to the order. With respect to these advances, the Commission accepted them for filing, suspending the use thereof for one day until December 28, 1973, and set the matter for hearing.

Docket No. RP74–75 was subsequently enlarged by Commission order issued May 20, 1974, in Docket No. RP74–80. Said order provided that the hearing on the advance payments authorized in the March 22, 1974, order would also include consideration of cost-of-service treatment for post October 7, 1969, leases in the Hugoton-Anadarko area.[1]

Northern's currently proposed rate increases are pending in Docket No. RP74–80. Revised tariff sheets were filed April 11, 1974, and, by order of May 20, 1974, were suspended until October 27, 1974, becoming effective as of that date by order issued November 12, 1974. Our order of May 20, 1974, further provided that Northern would not be allowed to extend its authority to track advance payments[2] beyond the effective date of the rates proposed in Docket No. RP74–80. Northern's subsequent application for rehearing on that point was denied.

Staff proposes that we sever the advance payments issues from Docket No. RP74–75, and consolidate them with the Docket No. RP74–80 rate proceedings, leaving only the Hugoton-Anadarko issue for consideration in Docket No. RP74–75. No party to either proceeding has filed timely opposition to Staff's proposal. We are of the opinion that the suggested consolidation will serve to expedite these proceedings. We find a likelihood that common principles of law and issues of fact will be raised between the challenged advances in Docket No. RP74–75 and rate base considerations in Docket No. RP74–80.

Staff further requests that we extend the procedural dates in Docket No. RP74–80 that we established by notice issued September 25, 1974. We have already issued notice on January 21, 1975, that, in view of Staff's motion of January 15, 1975, in these proceedings, the procedural dates in Docket Nos. RP74–75 and RP74–80 have been deferred pending further action by the Commission. Finding the extension suggested by Staff to be reasonable, we shall adopt them. We note that the procedural dates established below apply only to Docket No. RP74–80.

The Commission finds. (1) Good cause exists to sever the advance payments issues from Docket No. RP74–75 and consolidate said issues with the proceedings now pending in Docket No. RP74–80.

(2) Good cause exists to extend the presently established procedural dates in Docket No. RP74–80, as hereinafter provided.

[1] The Hugoton-Anadarko issue had been reserved from the January 4, 1974, order approving the rate settlement in Docket No. RP71–107, et al.

[2] This authority was granted Northern by our order of January 4, 1974, approving the settlement in the Docket Nos. RP71–107, et al., proceeding.

The Commission orders. (A) Pursuant to § 1.20(b) of the Regulations of the Commission, the advance payments issues assigned to Docket No. RP74–75 by our order of March 22, 1974, are hereby severed therefrom and consolidated with the proceedings now pending in Docket No. RP74–80, for purposes of hearing and decision.

(B) The procedural dates established by notice issued September 25, 1974, in Docket No. RP74–80 are hereby modified as follows:

March 24, 1975—Service of Staff's Testimony.
April 7, 1975—Service of Intervenor's Testimony.
May 5, 1975—Service of Company's Rebuttal.
May 20, 1975—Hearing.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-5036 Filed 2-25-75;8:45 am]

[Docket No. RP74-102]

NORTHERN NATURAL GAS CO.

Proposed Stipulation and Agreement

FEBRUARY 14, 1975.

Take notice that Presiding Administrative Law Judge William Jensen, on January 30, 1975 certified to the Commission for action a proposed settlement agreement filed by Northern Natural Gas Company (Northern) in the above-mentioned docket on December 6, 1974. On January 17, 1975, Northern filed pro forma tariff sheets with the Presiding Judge reflecting the settlement agreement. The proceeding involves modifications proposed by Northern to its approved curtailment plan (48 FPC 669), as previously modified (48 FPC 1149).

The proposed settlement agreement consists of the following proposals:

1. Paragraph 9.2 of Northern's Gas Tariff, Third Revised Volume No. 1 will be revised to provide that:

a. On any day during the billing months of October through March, i.e. September 27 through March 26, EG plant sales would be subject to 100% curtailment.

b. On any day during the billing months of April through September, i.e. March 27 through September 26 referred to as Summer Period, EG plant sales are subject to curtailment as follows:

(1) During 1975, EG plant sales will be subject to curtailment down to 60 percent of the billing group contract demand.

(2) During 1976, EG plant sales will be subject to curtailment down to 30 percent of billing group contract demand.

(3) Commencing September 27, 1976, and thereafter, all EG plant sales will be subject to complete curtailment.

2. Northern will promptly file an application with the Federal Power Commission to establish contract demands for the communities comprising the so-called Argus System served by the Peoples Natural Gas Division of Northern.

3. Pipelines will be curtailed in accordance with the presently effective Paragraph 9.3 of Northern's tariff.

4. Paragraph 9.5 will be amended to provide that an "EG Plant Sale" means

gas used by a Gas Utility itself in, or resold by a Gas Utility to, an electrical generation plant, with total fuel input requirements of more than 200 Mcf per day, or equivalent.

a. New Paragraph 9.51 provides that EG Plants meeting the following conditions will be curtailed in accordance with the provisions of paragraph 9.52 and 9.53:

(1) Maximum day requirements of 3,000 Mcf per day or less;

(2) Lack of electric interconnection facilities capable of providing electric power service for the current total electric system requirements; and a contract with another electric utility for purchase of its current base load system requirements.

b. New Paragraph 9.52 provides that EG Plants meeting the requirements of paragraph 9.51 shall use due diligence to reduce their natural gas requirements and, in any event, after September 1, 1977, shall be subject to year-round curtailment under the provisions of paragraph 9.2. Before September 1, 1977, said EG plants shall be curtailed under the provisions of paragraph 9.2 during the winter period and paragraph 9.4 during the summer period.

c. New Paragraph 9.53 provides that if any EG Plant listed in paragraph 9.51 uses natural gas on any day in excess of 3,000 Mcf or exceeds in any year the annual sales listed in paragraph 9.51 for such plant, it shall thereafter be subject to year-round curtailments under the provisions of paragraph 9.2.

d. New Paragraph 9.54 provides that each EG Plant listed in paragraph 9.51 shall within seven months of the effective date of paragraph 9.5 and each six months thereafter, submit in writing to the Secretary of the Federal Power Commission, with copies to Northern and the Gas Utility, the following information:

(1) Maximum day usage of natural gas during the preceding six-month period;

(2) Amount of electricity purchased during the preceding six-month period;

(3) Description and quantification of the steps taken to reduce gas usage during the preceding six-month period.

5. The penalty charge for CD–1 and PL–1 unauthorized overrun gas taken up to the larger of 3 percent of the Contract Demand or 50 Mcf will be increased from $2.00 per Mcf to $5.00 per Mcf.

6. Clarkson Memorial Hospital, served by the Metropolitan Utilities District of Omaha, Nebraska, shall be exempt from the curtailment provisions of paragraph 9 due to the unique circumstances under which gas is now being rendered to that facility.

Initial comments on the proposed settlement agreement may be filed with the Commission on or before March 5, 1975. Reply comments may be filed on or before March 20, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-5028 Filed 2-25-75;8:45 am]

[Docket No. RP75-30]

UNITED GAS PIPE LINE CO.

Late Intervention

FEBRUARY 13, 1975.

On November 4, 1974, the United Gas Pipe Line (United) tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2. United's Filing was noticed by the Commission on November 8, 1974, with protests and petitions to intervene due on or before November 25, 1974.

An untimely petition to intervene was filed by the United Municipal Distributors Group on January 20, 1975.

Having reviewed the above petitions to intervene, we believe that the petitioners have sufficient interest in the proceedings to warrant interventions.

The Commission finds. It is desirable and in the public interest to allow the above-named petitioners to intervene.

The Commission orders. (A) The above-named petitioners are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-5038 Filed 2-25-75;8:45 am]

[Docket No. RI74-194]

KWB OIL PROPERTY MANAGEMENT INC.

Notice Reconvening Hearing

FEBRUARY 20, 1975.

Take notice that the hearing indefinitely postponed by the Presiding Administrative Law Judge on September 19, 1974, shall reconvene on February 26, 1975, at 10:00 a.m. (e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-5222 Filed 2-25-75;8:45 am]

FEDERAL RESERVE SYSTEM

AMERIBANC, INC.

Order Approving Acquisition of Bank

Ameribanc, Inc., St. Joseph, Missouri, 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 84 percent or more of the voting shares of Bank of Higginsville, Higginsville, Missouri ("Bank").

Notice of this 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 fourteenth largest banking organization in Missouri, controls four subsidiary banks with aggregate deposits of about $144 million, representing approximately 1 percent of total commercial bank deposits in Missouri.[1] Acquisition of Bank, with deposits of about $15.4 million, would increase Applicant's share of commercial bank deposits by approximately 0.1 of one percentage point and would not result in any significant increase in the concentration of banking resources in Missouri.

Bank is the third largest of seven banks in the relevant banking market,[2] and controls approximately 19.3 per cent of market deposits. Applicant's closest subsidiary bank is located approximately 99 road miles northeast of Higginsville. No significant competition exists between Bank and any of Applicant's bank or nonbank subsidiaries. Moreover, it is unlikely that significant future competition will develop in view of the distances involved and Missouri's restrictive branching laws. Prospects for *de novo* entry do not appear favorable due to the only moderate growth of the market and a low deposits per banking office ratio. On the basis of the record, it appears that consummation of the proposed acquisition would have no significant adverse effects upon existing or potential competition within the market.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are all regarded as satisfactory and consistent with approval. Affiliation with Applicant would result in some expansion of Bank's services. Accordingly, the Board regards considerations relating to the convenience and needs of the community to be served as being consistent with 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 Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective February 18, 1975.

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

[FR Doc.75-5107 Filed 2-25-75;8:45 am]

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[1] All banking data are as of June 30, 1974.

[2] The relevant banking market is approximated by Lafayette County excluding the northeast and northwest corners.

[3] Voting for this action: Chairman Burns and Governors Sheehan, Bucher, Holland and Wallich. Absent and not voting: Governors Mitchell and Coldwell.

WYOMING BANCORPORATION

Order Approving Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, 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 all of the voting shares (less directors' qualifying shares) of Bank of Wyoming, Hanna, Wyoming ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with 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 is the largest banking organization in Wyoming and controls 16 subsidiary banks with aggregate deposits of $236.2 million, representing approximately 18 percent of the total commercial bank deposits in the State.[1] Since Bank is a proposed new bank, consummation of the proposed acquisition would not immediately increase the concentration of banking resources in the State.

Bank will be the only bank in Hanna, a community located in southeastern Wyoming with a population of approximately 460 persons according to the 1970 census, and will compete in a banking market approximated by Carbon County. Applicant's nearest subsidiary bank, located 40 miles west of Hanna, is the largest of three banks operating in the relevant banking market and has total deposits of $37 million, representing approximately 56 per cent of total commercial bank deposits in the market. The two other banks presently in the market, one located 40 miles west and the other 40 miles south of Hanna, control 36 and 8 per cent, respectively, of the total market deposits. Since the proposal involves the establishment of a *de novo* bank, no existing or potential competition between any of Applicant's existing subsidiary banks and Bank would be eliminated and no immediate increase in the concentration of banking resources would result in the relevant market. Accordingly, the Board concludes that consummation of the proposal would not have an adverse effect on competition in any relevant area and that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Bank, as a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant appear favorable. Considerations relating to the banking factors are consistent with approval of the application. The proposed new bank would provide a new and convenient source of banking services to the residents of the Hanna area who presently must travel 40 miles to obtain any banking services. The recent growth experienced by Carbon County, and particularly in the Hanna area, has produced a strong demand for all types of loans. Upon consummation herein, Bank, with Applicant's assistance, would provide mobile home financing, mortgage lending, and other consumer lending services to Hanna residents. Applicant would also assist Bank internally with investments, training of personnel, advertising, operations and accounting guidance, audits, and master blanket bond insurance coverage. Accordingly, considerations relating to convenience and needs of the community to be served lend weight toward approval of the application. It is the Board's judgment that the proposed acquisition is 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 that date, and (c) Bank of Wyoming, Hanna, Wyoming, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[2] effective February 18, 1975.

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

[FR Doc.75-5108 Filed 2-25-75;8:45 am]

[1] All banking data are as of June 30, 1974 and reflect bank holding company formations and acquisitions approved by the Board as of December 31, 1974.

[2] Voting for this action: Chairman Burns and Governors Sheehan, Bucher, Holland and Wallich. Absent and not voting: Governors Mitchell and Coldwell.

FEDERAL TRADE COMMISSION

PUBLIC INVESTIGATION OF COMPLIANCE BY FRANCHISORS WITH LAWS ADMINISTERED BY THE COMMISSION

Requirements for Submission of Special Reports

On October 2, 1973, the Commission issued its final order and opinion in Docket 8884—Chock Full O'Nuts Corporation, Inc. (38 FR 29317), holding that a franchisor of sit-down counter service restaurants which required its franchisees to purchase products manufactured by the franchisor, or by the franchisor from others, was engaged in per se violations of the Federal Trade Commission Act, absent affirmative proof by the franchisor that such purchase restrictions are "necessary to ensure the quality of its products, or that no less restrictive means than the tie-in may be used to ensure such quality." With respect to some products, the franchisor convinced the Commission that such purchase restrictions were so necessary; with respect to other products, the franchisor failed to adduce convincing proof that its purchase restrictions were necessary.

Subsequent to the aforementioned decision, the Commission's Bureau of Competition has continued to receive numerous complaints of alleged tie-ins, exclusive dealing arrangements and coercive practices by franchisors, primarily in the fast food market.

Notice is hereby given that the Federal Trade Commission has approved, adopted, and entered of record the following resolution requiring certain franchisors of drive-in, carry out, or restaurant-type retail food establishments, to file Special Reports in order for the Commission to determine whether the franchisors have brought their franchise operations into compliance with the Commission's decision in the Chock Full O'Nuts case.

RESOLUTION DIRECTING USE OF COMPULSORY PROCESS IN A PUBLIC INVESTIGATION OF COMPLIANCE BY FRANCHISORS WITH LAWS ADMINISTERED BY THE COMMISSION

Whereas, the Federal Trade Commission has the authority under section 6 of the Federal Trade Commission Act to investigate the business practices of any person, partnership, or corporation engaged in, or whose business affects, commerce and its relation to other persons, partnerships, and corporations engaged in, or whose business affects, such commerce to file written special reports with the Commission, in such form as the Commission may prescribe, as to their business practices and relation to other persons, partnerships and corporations, and

Whereas, it appears to the Federal Trade Commission that it is in the public interest to conduct a survey for the purpose of determining whether franchisors who sell goods and/or services to their franchisees or who approve the sales of goods and/or services to their franchisees by others are complying with section 5 of the Federal Trade Commission Act, section 3 of the Clayton Act or any other statute administered by the Federal Trade Commission;

Now, therefore, it is hereby resolved that the Federal Trade Commission, in the exercise of the power vested in it by law, and pursuant to its published procedures and rules of practice, and with the aid of any and all compulsory processes available to it, forthwith proceed to conduct an investigation of such franchisors who sell goods and/or services to their franchisees or who approve the sale of goods and/or services to their franchisees by others as may be designated by the Commission for the reasons and purposes stated herein.

Dated: January 15, 1975.

By direction of the Commission dated February 18, 1975.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.75-5066 Filed 2-25-75;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

EXPANSION ARTS ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Expansion Arts Advisory Panel to the National Counsel on the Arts will be held on March 13, 14, 15, 1975 from 9:00 a.m.-5:30 p.m. each day, in the 1st floor conference room of the Shoreham Building, 805 15th Street, NW, Washington, D.C.

A portion of this meeting will be open to the public on March 15 from 12:30 p.m. to 5:30 p.m. on a space available basis. Accommodations are limited. During the open session, policy and planning will be discussed.

The remaining sessions of this meeting on March 13, 14, and March 15 from 9 a.m.-12:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4) and (5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-7144.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-5083 Filed 2-25-75;8:45 am]

FEDERAL-STATE PARTNERSHIP ADVISORY PANEL

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Federal-State Partnership Advisory Panel to the National Council on the Arts will be held on March 13, 14, 15, 1975 from 9:30 a.m.-5 p.m. each day except March 13 which will extend to 6 p.m. This meeting will meet in the Fairfax Hotel, 2100 Massachusetts Avenue, NW., Washington, D.C.

A portion of this meeting will be open to the public on March 13 from 9:30 a.m.-12 p.m. on a space available basis. Accommodations are limited. During the open session, there will be a report on Resolutions of November 1974 meeting; report on Regional subpanel meeting; report on New Directions subpanel meeting; and, FY 1977-78 Federal-State Guidelines.

The remaining sessions of this meeting on March 13 from 12 p.m.-6 p.m., March 14, and 15 are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552 (b), (4) and (5)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-7144.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-5084 Filed 2-25-75;8:45 am]

PUBLIC MEDIA ADVISORY PANEL

Change in Time of Open Session

In reference to the February 14 issue of the FEDERAL REGISTER, page 6833, the open session of the Public Media Advisory Panel meeting to the National Council on the Arts has been changed from March 4—2 p.m.-5:30 p.m. and March 5—9 a.m.-5:30 p.m. to one open session on March 3 from 9 a.m.-5:30 p.m.

Further information can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-7144.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-5082 Filed 2-25-75;8:45 am]

VISUAL ARTS ADVISORY PANEL

Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that closed meetings of the Visual Arts Advisory Panel to the National Council on the Arts will be held on March 14, 1975 from 9 a.m.-5 p.m. in the 11th floor Visual Arts conference room, 2401 E Street, NW. Washington, D.C.; March 17, 1975 from 9 a.m.-5 p.m. in the 10th floor conference room, 806 15th Street, Washington, D.C.; March 19, 1975, March 22, 23, 1975, and April 1, 1975 from 10 a.m.-5 p.m. in the 10th floor conference room, 806 15th Street, Washington, D.C.; March 24, 25, 26, 1975 from 10 a.m.-5 p.m. in the 1st floor conference room, 806 15th Street, Washington, D.C.

These meetings are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of January 10, 1973, these meetings, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4), (5)), will not be open to the public.

Further information with reference to these meetings can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-7144.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.75-5085 Filed 2-25-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-6]

BATTELLE MEMORIAL INSTITUTE

Intent to Issue Order Authorizing Dismantling of Facility

By application dated September 13, 1974, Battelle Memorial Institute requested authorization to dismantle the Battelle Research Reactor in accordance with its dismantling plan.

The Commission has reviewed the application in accordance with the provisions of the Commission's regulations and has found that the dismantling and disposal of component parts will be accomplished in accordance with the regulations in 10 CFR Chapter I, and the application, and will not be inimical to the common defense and security or to the health and safety of the public. The basis for the findings is set forth in the Safety Evaluation by the Division of Reactor Licensing which is being issued concurrently with this notice.

Accordingly, an appropriate order will be issued after March 13, 1975 authorizing Battelle Memorial Institute to dismantle the Battelle Research Reactor covered by Facility License No. R-4, as amended.

Dated at Bethesda, Maryland, this 18th day of February, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-5054 Filed 2-25-75;8:45 am]

[Docket No. 50-219]

JERSEY CENTRAL POWER AND LIGHT CO.

Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Provisional Operating License No. DPR-16 issued to Jersey Central Power & Light Company which revised Technical Specifications for operation of the Oyster Creek Nuclear Generating Station, located in Lacey Township, Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment permits lowering the main steamline isolation valve low main steamline pressure closure set point.

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 November 26, 1974, (2) Amendment No. 7 to License No. DPR-16 with Change No. 23, and (3) The Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Ocean County Library, 15 Hooper Avenue, Toms River, New Jersey.

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 14th day of February, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75-5055 Filed 2-25-75;8:45 am]

[Docket Nos. 50-514, 50-515]

PORTLAND GENERAL ELECTRIC CO. (PEBBLE SPRINGS NUCLEAR PLANT, UNITS 1 & 2)

Schedule for Special Prehearing Conference

In accordance with the rules or practice of the Commission,[1] a special prehearing conference in the above proceeding will be held on March 25, 1975, at 10 a.m., local time, in the Arlington Elementary School, Arlington, Oregon 97812.

Matters to be taken up at the conference include identification and simplification of the issues; outstanding petitions for intervention; the need for discovery and the time required for it, and establishment of schedules for further action in the proceeding.

Members of the public are welcome to attend the prehearing conference. However, there will be no evidence presented nor will there be opportunity for individuals to make oral or written statements by way of limited appearance. Such statements will be received at the evidentiary hearing to be scheduled at a later date.

It is so ordered.

Dated at Bethesda, Maryland this 21st day of February 1975.

For the Atomic Safety and Licensing Board.

JAMES R. YORE,
Chairman.

[FR Doc.75-5057 Filed 2-25-75;8:45 am]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO.

Amendment to Provisional Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Provisional Operating License No. DPR-13 issued to Southern California Edison Company which revised Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit 1, located in San Diego, California. The amendment is effective as of its date of issuance.

This amendment authorizes an increase of the core average burnup for Cycle 4 and succeeding cores from 19,000 MWD/MTM to 21,000 MWD/MTM.

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.

For further details with respect to this action, see (1) the application for amendment dated December 4, 1974, (2) Amendment No. 10 to License No. DPR-13, with any attachments, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the San Clemente Public Library, 233 Granada Street, San Clemente, California.

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 18th day of February 1975.

For the Nuclear Regulatory Commission.

ROBERT A. PURPLE,
Chief, Operating Reactors Branch #1, Division of Reactor Licensing.

[FR Doc.75-5058 Filed 2-25-75;8:45 am]

[Docket Nos. 50-327 and 50-328]

TENNESSEE VALLEY AUTHORITY AND SEQUOYAH NUCLEAR PLANT, UNITS 1 AND 2

Issuance of Amendments to Provisional Construction Permits and Availability of Initial Decision

Notice is hereby given that pursuant to an Agreement of the Parties presented to the Atomic Safety and Licensing Board during the evidentiary hearing held July 1, 1974 and July 30-31, 1974 in Chattanooga, Tennessee, the Nuclear Regulatory Commission has issued Amendment No. 2 to Provisional Construction Permit No. CPPR-72 and Amendment No. 2 to Provisional Construction Permit No. CPPR-73 issued to the Tennessee Valley Authority for construction of the Sequoyah Nuclear Plant, Units 1 and 2, located in Hamilton County, Tennessee. The Agreement modifies the construction permits to include certain conditions for the protection of the environment. This Agreement was noted in the Initial Decision issued by the Atomic Safety and Licensing Board on December 2, 1974. The Initial Decision is subject to review by an Atomic Safety and Licensing Appeal Board prior to its becoming final. Any decisions or actions taken by the Atomic Safety and Licensing Appeal Board in connection with the Initial Decision may be reviewed by the Commission.

A copy of the Initial Decision dated December 2, 1974, Amendment No. 2 to

[1] The Nuvlear Regulatory Commission is the successor organization to the Atomic Energy Commission as provided by legislation enacted by the Congress in Pub. L. 93-438.

Provisional Construction Permit No. CPPR–72, Amendment No. 2 to Provisional Construction Permit No. CPPR–73, the Agreement of the Parties, and the Tennessee Valley Authority's Final Environmental Statement are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and in the Chattanooga Public Library, 601 McCalley Street, Chattanooga, Tennessee 37403.

The above noted documents are also being made available at the Office of Urban and Fedreal Affairs, Suite 1025, Andrew Jackson State Office Building, Nashville, Tennessee, 37219; the Chattanooga Area Regional Council of Governments, 423 James Building, 735 Broad Street, Chattanooga, Tennessee 37402; and the Office of Urban and Federal Affairs, 321 Seventh Avenue, North, Nashville, Tennessee 37219.

The Nuclear Regulatory Commission has found that the provisions of these amendments comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I and has concluded that the issuance of these amendments will not be inimical to the common defense and security or to the health and safety of the public.

The record developed in the public hearing in the above captioned matter modified in certain respects the contents of the Final Environmental Statement relating to the construction of the Sequoyah Nuclear Plant, Units 1 and 2, prepared by the Tennessee Valley Authority. Pursuant to the provisions of § 51.52(b)(3) of 10 CFR Part 51, the Final Environmental Statement is deemed modified to the extent that the conditions relating to environmental matters contained in the Agreement of the Parties presented in the hearing record and noted in the Initial Decision are different from those contained in the Final Environmental Statement issued February 1974. As required by § 51.52(b)(3) of 10 CFR Part 51, a copy of the Initial Decision and the Agreement of the Parties which modified the Final Environmental Statement, have been transmitted to the Council on Environmental Quality and distributed to the Environmental Protection Agency and other interested agencies and persons in accordance with § 51.26(c) of 10 CFR Part 51.

Single copies of the Initial Decision, Amendment No. 2 to Provisional Construction Permit No. CPPR–72, Amendment No. 2 to Provisional Construction Permit No. CPPR–73, the Final Environmental Statement and the Agreement of the Parties may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 19th day of February 1975.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch 2–2, Division of Reactor Licensing.

[FR Doc.75–5059 Filed 2–25–75;8:45 am]

[Docket No. 50–186]

UNIVERSITY OF MISSOURI—COLUMBIA

Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. R–103 issued to University of Missouri ("the licensee") which revised Technical Specifications for operation of the University of Missouri Research Reactor (MURR), located in Columbia, Missouri. The amendment is effective as of its date of issuance.

The amendment increases the maximum allowable fuel burnup from 99 megawatt days (MWD) for the UA1, intermetallic fuel to 150 megawatt days (MWD) per element. It also increases the allowable time between inspections of fuel elements.

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. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

For further details with respect to this action, see (1) the application for amendment dated October 21, 1974, and Supplement dated November 20, 1974, (2) Amendment No. 3 to License No. R–103, with Change No. 11 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this 14th day of February, 1975.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Reactor Licensing.

[FR Doc.75–5056 Filed 2–25–75;8:45 am]

[Docket No. 50–513A]

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

Receipt of Attorney General's Advice and Time for Filing of Petitions To Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c. of the Atomic Energy Act of 1954, as amended, a letter of advice from the Attorney General of the United States, dated February 13, 1975, a copy of which is attached as Appendix A.

Any person whose interest may be affected by this proceeding may, pursuant to § 2.714 of the Commission's rules of practice, 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by March 28, 1975 either (1) by delivery to the NRC Public Docketing and Service Section at 1717 H Street, NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Section.

For the Nuclear Regulatory Commission.

ABRAHAM BRAITMAN,
Chief, Office of Antitrust and Indemnity Nuclear Reactor Regulation.

APPENDIX A

WASHINGTON PUBLIC POWER SUPPLY SYSTEM

NUCLEAR PROJECT NO. 4

NRC DOCKET NO. 50–513A

DEPARTMENT OF JUSTICE FILE NO. 60–415–114

FEBRUARY 13, 1975.

You have requested our advice pursuant to the provisions of section 105 of the Atomic Energy Act of 1954, as amended, in regard to the above-captioned application.

The Washington Public Power Supply System (WPPSS), a power generating agency, has applied for a construction permit and operating license for a utilization facility to be known as WPPSS Nuclear Project No. 4 (WPPSS No. 4) at its site on the Hanford Reservation in Benton County, Washington. Operation is scheduled for 1982. The facility will have a nominal capacity of 1,250,000 kilowatts.

WPPSS will be entitled to all of the output of WPPSS No. 4. This output will be offered to 104 systems in the Pacific Northwest, of which 29 are municipalities, 28 are public utility districts and 47 are cooperatives, all are statutory preference customers of the Bonneville Power Administration (Bonneville). No other entities have expressed a desire to acquire a portion of the output of WPPSS No. 4.

Applicant. WPPSS is a municipal corporation and a joint operating agency of the State of Washington. Its membership, which is established by Washington State law, is made up of eighteen operating public utility districts in the State of Washington and the Cities of Richland, Seattle, and Tacoma, Washington. The management and control of WPPSS is vested in a Board of Directors

consisting of representatives of each of the public utility districts and the cities.

WPPSS presently operates the Packwood Lake Hydroelectric Project in Lewis County, Washington, and the Hanford Electric Generating Project of the Energy Research and Development Administration's reactor near Richland, Washington. WPPSS previously applied to your predecessor commission for licenses with respect to WPPSS Nuclear Projects Nos. 1 and 2. The Department of Justice advised the Atomic Energy Commission that it need not conduct an antitrust hearing with respect to those projects. We have recently advised the Nuclear Regulatory Commission that it need not conduct an antitrust hearing with respect to an application by WPPSS for WPPSS Nuclear Project No. 3. WPPSS also anticipates acquiring a 15 per cent ownership interest in the Skagit Nuclear Project now being planned by the Puget Sound Power & Light Company.

Interconnection and Coordination with Others. The Pacific Northwest is an area where there is a high degree of coordination and cooperation between utilities involved in the generation and transmission of electrical power.

The dominant factor in the area in terms of energy transmission is Bonneville; it has over 12,000 miles of transmission facilities in the Pacific Northwest representing about 80 per cent of the bulk power transmission capacity in that region. Bonneville is generally described as the leading force promoting coordination and joint planning with respect to electrical power. Bonneville markets power to 149 customers, including the 104 preference customers which may elect to participate in WPPSS No. 4.

In the Pacific Northwest, five private utilities, 110 publically-owned agencies, WPPSS and Bonneville have formed the Joint Power Planning Council to coordinate planning for existing and future thermal and hydroelectric resources for the region. The area includes the States of Washington, Oregon, and portions of northern California, Idaho and Montana. The Joint Power Planning Council has developed the Hydro Thermal Power Program plan for power generation to meet the area's anticipated load growth.

The major portion of power supply for the Pacific Northwest has historically been from hydroelectric generating sources. Most of the hydroelectric projects were built by the federal government as part of the Columbia River Power System. However, in recent years, the region has turned to thermal generation for its base-load resources since virtually all the hydropower sites have been developed.

Results of Antitrust Review. With one exception, our study of this application did not indicate any antitrust problem. The only matter requiring exploration pertained to allegations that the City of Tacoma, Washington, one of the possible 104 participants, was refusing to wheel power from Bonneville to five utilities who were, at one time, served by Tacoma. These five utilities are members of the Pierce County Cooperative Power Association (PCCPA). Many of the details concerning this controversy were presented to the United States Senate Committee on Appropriations on H.R. 8947, Public Works for Water and Power Development and Atomic Energy Commission Appropriations, Fiscal Year 1974, 93rd Congress, 1st Session, Part 6, at pages 7,175–7,194.

Negotiations between the PCCPA group and Tacoma for transmission service from Bonneville to the PCCPA group have now been concluded, and since July 1, 1974, power from Bonneville has been wheeled over Tacoma facilities to the PCCPA group in accordance with an agreement between them. This agreement is subject to approval by the Tacoma City Council. On the assumption that the Tacoma City Council will approve the transmission agreement in the near future, we conclude that an antitrust hearing will not be necessary with respect to the instant application.

[FR Doc.75-4959 Filed 2-25-75;8:45 am]

[Docket Nos. 50-440, 50-441]

CLEVELAND ELECTRIC ILLUMINATING (PERRY NUCLEAR POWER PLANT, UNITS 1 AND 2)

Modification of Order To Show Cause

FEBRUARY 18, 1975.

Before the Atomic Safety and Licensing Board.

I. By Order dated January 20, 1975, the Cleveland Electric Illuminating Company, the Duquesne Light Company, the Ohio Edison Company, the Pennsylvania Power Company, and the Toledo Edison Company ("the licensees") were ordered to:

(a) Show cause why all work activities under the LWA, issued by the Director of Regulation on October 21, 1974 and supplemented on November 8, 1975, should not be suspended pending completion of the Nuclear Regulatory Commission's (NRC) review and evaluation of the environmental and site suitability considerations raised by the licensees' proposed permanent dewatering system described in Amendement 22 to the licensees' Preliminary Safety Analysis report (PSAR); and

(b) Immediately suspended all LWA work activities pending further order.

II. On February 4, 1975, the licensees filed an Answer to Order to Show Cause. In their Answer, and other documents submitted to the NRC Staff,[1] and in technical presentations at meetings with the NRC Staff,[2] thet licensees have identified work activities, previously authorized under the LWA that would not affect either the ultimate cost benefit balance for the environmental review for the facility as provided in the National Environmental Policy Act of 1969, as amended, or the availability of one of several satisfactory alternatives to the dewatering system.[3] These submittals also provided an evaluation of the environmental impacts to be expected from the proposed dewatering system. This information was not available when the Acting Director issued his January 20, 1975, Order to Show Cause. In view of the information submitted by the licensees and the NRC Staff's review and evaluation of this information, the Acting Director for the Office of Nuclear Reactor Regulation has determined that the public health, safety or interest does not require that all work activities under the LWA remain suspended. Based on a worst case analysis of potential environmental impacts, the Acting Director has determined that the suspension of those LWA construction activities, other than those activities which may effect the selection of a satisfactory alternative to the dewatering system, be withdrawn and authority for the continued performance of those work activities be reinstated.

III. Attachment A to the January 20, 1975, Order specified the LWA work activities which were suspended. This Modification of Order withdraws the suspension of the following work activities as enumerated in Attachment A to the Order to Show Cause:

1. Preparation of the site for construction of the facility, including 1a through 1h.
2. Installation of temporary construction support facilities, including 2a through 2g.
4. Construction of service facilities, including 4a through 4m.
5. Construction of the structures, systems and components which are not subject to the provisions of Appendix B to 10 CFR Part 50, including 5a and 5f only.

IV. The basis for withdrawing the suspension on these activities is that the construction activities involved would require minimum disturbance of the existing ground surface (in most cases excavation would be limited in depth to about 5 feet below the existing ground surface) and that these activities are not directly related to safety-related structures, systems or components. None of the enumerated activities affect the final disposition of the proposed dewatering system nor will their completion, in turn, affect the final resolution of proposed design changes or the imposition of possible alternative designs or systems.

Furthermore, based on a worst case analysis, none of the environmental impacts discussed in the Order to Show Cause and the affidavit of Lewis G. Hulman attached to the NRC Staff's Motion to Supplement the "Commission's Staff's Motion to Reopen the Record on Environmental and Site Suitability Matters" would change the ultimate conclusion of the benefit-cost balance originally struck in the Final Environmental Statement for the Perry Nuclear Power Plant, Units 1 and 2.

V. In view of the foregoing and pursuant to the Atomic Energy Act of 1954, as amended, the Regulations in 10 CFR Parts 2 and 50, and the Order to Show Cause of January 20, 1975, addressed to the licensees, it is hereby determined that: The public health, interest or safety does not require the continued suspension of the work activities under the LWA unrelated to the selection of a

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[1] These documents were submitted by the licensees on January 17, 29 and 31, 1975. Copies of these documents are on file in the Nuclear Regulatory Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and the Nuclear Regulatory Commission's local Public Document Room, Perry Public Library, 3553 Main Street, Perry, Ohio 44081.

[2] These meetings were held at the NRC Staff offices in Bethesda, Maryland on January 10, 21 and 22, 1975.

[3] The Director has also considered information in a letter from Robert F. Koblenzer, East Ohio Gas Co., to Ralph A. Maselli, Public Utilities Commission of Ohio, which alleged that submission by the licensees to the NRC regarding a 16-inch natural gas line endangered by the suspension of work activities at the Perry site were incorrect. This information, if determined to be correct after review, would not effect issuance of this Modification of Order to Show Cause.

satisfactory alternative to the dewatering system; these activities are specified in section III of this Modification of Order to Show Cause.

And it is hereby ordered, That: Effective this date the Order to Show Cause of January 20, 1975, is modified to delete the suspension of work activities specified in Section III of this Modification of Order to Show Cause. All other provisions of said Order to Show Cause shall remain in full force and effect.

Dated at Bethesda, Maryland this 18th day of February, 1975.

EDSON G. CASE,
Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc.75-5186 Filed 2-25-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on February 20, 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.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Statistical reporting service, seeding rate survey, single-time, farms, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary, Directory of Child Advocacy Programs and Projects, OS-11-75, single-time, local and State governments and private non-profit organizations, Caywood, D. P., 395-3443.

National Institute of Education, Factors Relating to Achievement/Aspirations of Urban Community College Students Form, NIE 101, single-time, social science students in urban community colleges, Planchon, P., 395-3898.

Office of Education: College and University Libraries, Fall 1975, 2300-5, other (see SF-83), college and university libraries, Planchon, P., 395-3898.

Residence and Migration of College Students, Fall 1975, annually, colleges and universities, Planchon, P., 395-3898.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Demand Experiment Third Periodic Survey Questionnaires, single-time, EHAP participants in Phoenix and Pittsburgh, Community and Veterans Affairs Division, 395-3532.

Federal Disaster Assistance Administration, Inspector's Environmental Information, HUD 484.2, on occasion, Federal inspector on disaster projects, Lowry, R. L., 395-3772.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary, Cumulative Quarterly Progress Report—Aging, OS-19-74, quarterly, grantee agency, Reese, B. F., 395-5630.

Office of Education: Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1975, OE 2300-4, annually, colleges and universities, Planchon, P., 395-3898.

Employees in Institutions of Higher Education 1974-75, OE2300-3, annually, colleges and universities, Planchon, P., 395-3898.

Upper Division and Post-Baccalaureate Enrollment by Degree Field, OE2300-2.5, annually, colleges and universities, Planchon, P., 395-3898.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Seed Inquiries—Shippers, annually, seed cleaners and chippers, Lowry, R. L., 395-3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:

Opening Fall Enrollment, 1974—Higher Education General Information Survey (HEGIS), 2300-2.3, annually, colleges and universities, Planchon, P., 395-3898.

Degrees and Other Formal Awards Conferred 65-June 30, 1966 (Higher Education Annual Information), 2300-21, annually, colleges and universities, Planchon, P., 395-3898.

DEPARTMENT OF THE TREASURY

Bureau of Customs:

Warehouse Withdrawal for Consumption Premit—Duty Paid, 7505A, on occasion, Evinger, S. K., 395-3648.

Declaration of Foreign Repairs to Vessel or Aircraft, CF-3415, on occasion, Evinger, S. K., 395-3648.

Certificate of Origin, CF3229, on occasion, Evinger, S. K., 395-3648.

Inward Manifest of Baggage Car, 7533-A, on occasion, Evinger, S. K., 395-3648.

Order to Release Merchandise on Order of the Warehouse Proprietor, 7505B, on occasion, Evinger, S. K., 395-3648.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-5191 Filed 2-25-75;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 February 21, 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.

The symbol (X) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Qualifications Inquiry—Administrative Law Judge, CSC 192, on occasion, supervisors and associates of job applicants, Caywood, D.P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of the Census, May 1975 Survey of Adult Education, CPS-1, CPS-643, single-time, households in May 1975 CPS National Sample, Planchon, P., 395-3898.

DEPARTMENT OF TRANPORTATION

Federal Highway Administration, Pilot CBD Pedestrian RTOR Questionnaire, single-time, individuals, Strasser, A., 395-3880.

Departmental and Other Pilot Right-Turn-On Red Driver Attitude Survey, single-time, persons renewing drivers license, Strasser, A., 395-3880.

National Highway Traffic Safety Administration, National Survey of Automobile Purchasing Behavior, single-time, households, Strasser, A., 395-3880.

Departmental and Other Work Shop/Seminar Requirements Study Mail Survey Questionnaire, single-time, State/local government nationally, Strasser, A., 395-3880.

National Highway Traffic Safety Administration, General Requirements of the Federal Motor Vehicle Safety Standards as Applicable to Motorcycles, HS-336, single-time, importers of nonconforming motorcycles, Lowry, R. L., 395-3772.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of the Census, Annual Survey of Oil and Gas, MA 13K, annually, operators and lessees of oil and gas field properties, Weiner, N., 395-4890.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service Monthly and Annual Naval Stores Inquires, 13-4, monthly, naval stores processors, Evinger, S. K., 395-3648.

DEPARTMENT OF HOUSIG AND URBAN DEVELOPMENT

Housing Management, Application for Cash Settlement—Multifamily Mortgage, FHA 1752, on occasion, Evinger, S. K., 395-3648.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Notice of Property Transfer and Application for Insurance Benefits, FHA 1025, on occasion, Evinger, S. K., 395-3648.

Housing Management, Title I Property Improvement Financial Statement, FHA 142, on occasion, Evinger, S. K., 395-3648.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75-5268 Filed 2-25-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[811-2431]

CHARTER INVESTMENT CO. INC.

Filing of Application Declaring That Company Has Ceased To Be an Investment Company

FEBRUARY 14, 1975.

In the matter of Charter Investment Company Inc., c/o Burton Spraker, 2000 First Maryland Building, 25 South Charles Street, Baltimore, Maryland 21201.

Notice is hereby given that Charter Investment Company Incorporated ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end diversified management investment company, filed an application on October 25, 1974, pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company. 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.

Applicant was organized as a Maryland corporation on November 5, 1973. It filed its Notification of Registration on Form N-8A under the Act and a Registration Statement under the Securities Act of 1933 ("Securities Act"), on November 5, 1973. Applicant's Securities Act Registration Statement never became effective, and on September 23, 1974, the Commission consented to its withdrawal.

Applicant represents that due to unfavorable market conditions it never commenced operations as an investment company, and that it is not engaged in any investment company activity nor does it propose to engage in any investment company activity.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 12, 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 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.75-5087 Filed 2-25-75;8:45 am]

[70-5531]

NATIONAL FUEL GAS CO.

Note to Parent Holding Company

In the matter of National Fuel Gas Company, 30 Rockefeller Plaza, New York, New York 10020, National Fuel Gas Distribution Corporation, 10 Lafayette Square, Buffalo, New York 14203, National Fuel Gas Supply Corporation, 308 Seneca Street, Oil City, Pennsylvania 16301.

Notice is hereby given that National Fuel Gas Company ("National Fuel Gas"), a registered holding company, and National Fuel Gas Distribution Corporation ("Distribution Corp.") and National Fuel Gas Supply Corporation ("Supply Corp."), its non-utility subsidiary companies, have filed with this Commission a post-effective amendment to its previously amended application-declaration in this proceeding pursuant to sections 6(a), 6(b), 7, 9(a), 9(c), 10, 12(b) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 43 and 45 thereunder regarding the following proposed transactions. All interested persons are referred to said post-effective amendment, which is summarized below, for a complete statement of the proposed transactions.

On October 22, 1974, National Fuel Gas extended an emergency credit to Supply Corp. in the amount of $3,500,000. The funds advanced by National Fuel Gas were derived from a special $3,500,000 dividend paid by Distribution Corp. Prior thereto, on September 30, 1974, the Commission approved proposals in this proceeding of Distribution Corp. and Supply Corp. to issue long-term notes in the aggregate amounts of $14,000,000 and $6,000,000, respectively, to National Fuel Gas (see Holding Company Act Release No. 18583).

In order to comply with Rule 45(b)(3), the applicants-declarants now propose to resolve the extension of credit to Supply Corp. by amending the terms of the authorization given in this filing. Accordingly, they propose to consummate a two-step transaction by which (1) $3,500,000 principal amount of the note issued by Distribution Corp. to National Fuel Gas will be cancelled and a contribution of capital in like amount from National Fuel Gas to Distribution Corp. made and, (2) Supply Corp. will issue its note in the principal amount of $3,500,000 to National Fuel Gas.

The proposed transactions will have the effect of converting the $3,500,000 non-interest bearing emergency credit to Supply Corp. into long-term debt. By cancelling an equivalent amount of long-term debt from Distribution Corp. to National Fuel Gas, the $20,000,000 overall subsidiary indebtedness to National Fuel Gas heretofore authorized will remain unchanged.

The note to be issued by Supply Corp. will mature, bear interest and contain other terms identical to those of the equivalent note of Distribution Corp. to be cancelled. The note issued by Supply Corp. will bear interest from October 22, 1974, the date of the emergency extension of credit. To reflect this, no accrued interest will be payable to National Fuel Gas by Distribution Corp. on the $3,500,000 note to be cancelled.

The fees, commissions and expenses to be paid or incurred in connection with the proposed transactions will total $1,650, which includes legal fees of $1,500. It is 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 March 19, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the previously amended application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses 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 post-effective amendment to the previously amended application-declaration may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem

appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, By the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-5088 Filed 2-25-75;8:45 am]

[70-5621]

PENNSYLVANIA ELECTRIC CO.

Issue and Sale of Cumulative Preferred Stock at Competitive Bidding

Notice is hereby given that Pennsylvania Electric Company ("Penelec"), 1001 Broad Street, Johnstown, Pennsylvania 15907, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(b) and 12(c) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Penelec proposes to issue and sell for cash, subject to the competitive bidding requirements of Rule 50 under the Act, up to 350,000 additional shares of its cumulative preferred stock, percent Series J ("new preferred stock"). Terms of the new preferred stock will include a mandatory redemption provision commencing on April 1, 1976, to retire annually 5 percent of the number of shares of the new preferred stock that are originally issued at $100 per share, plus accrued dividends to the redemption date on April 1 of each year. This mandatory redemption provision is designed to retire all the new preferred stock by April 1, 1995. Terms of the new preferred stock will also provide that Penelec shall not refund the new preferred stock by the issuance of debt securities at a lower interest cost or other preferred stock at a lower dividend cost within five years of the issuance of the new preferred stock.

The dividend rate and the optional redemption prices will be determined by the competitive bidding. The bidding procedure will require that (1) the price per share (and the price at which each share shall be initially offered by the underwriters to the public) shall be $100, which is the par value of the new preferred stock, (2) the dividend rate for the new preferred stock be specified by such bids and be a multiple of 1/25th of 1 percent and (3) the underwriting commission per share to be paid by Penelec to the successful bidders be specified in the bids. The bidding procedure will not establish a minimum or maximum dividend rate or commission within which bids may be submitted.

The entire proceeds to be realized from the sale of the new preferred stock will be used to pay a portion of Penelec's short-term bank loans expected to be outstanding at the date of sale or to reimburse Penelec's treasury for previous expenditures therefrom for construction purposes. Penelec expects to have approximately $67,115,000 of bank loans outstanding immediately prior to the date of sale of the new preferred stock.

Fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 14, 1975, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant 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, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-5089 Filed 2-25-75;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CONCERNING VOLUNTARY AGREEMENT AND PROGRAM TO IMPLEMENT THE INTERNATIONAL ENERGY PROGRAM

Notice of Proposed Agreement

After consultations with representatives of the petroleum industry and other members of the public, pursuant to section 708(a) of the Defense Production Act, the Federal Energy Administration in cooperation with the Department of State has developed a proposed voluntary agreement and program to facilitate participation by U.S. oil companies in the International Energy Program. Copies of the proposed agreement and program are available in the Office of General Counsel, Federal Energy Administration, in Room 5116, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. Prior to recommending this agreement to the Administrator of General Services for his approval as required by law, FEA would like to receive written data, views and arguments from the public concerning the proposed agreement.

Such views should be submitted no later than 4:30 e.d.s.t. on Tuesday, March 4, 1975. Fifteen copies of these comments should be submitted to Executive Communications, Box CI, Room 3309, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

This accelerated timetable is undertaken in order to facilitate the efforts of the United States and other consuming nations in connection with the Agreement on International Energy Program. Further procedures under the Defense Production Act require approval of the Attorney General of any request to enter into such an agreement and the official making the request (the Administrator of General Services) must consult with the Attorney General and the Chairman of the Federal Trade Commission not less than ten days before any such request. This will provide additional opportunity for public comment.

All comments received, including comments in response to this Notice, together with the proposed agreement and any proposed modifications will be available in Room 3400, Federal Energy Administration, Federal Building, 12th & Pennsylvania Avenue NW., Washington, D.C. Additional background information and material will also be available.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

FEBRUARY 25, 1975.

[FR Doc.75-5335 Filed 2-25-75;12:36 pm]

DEPARTMENT OF LABOR

Manpower Administration

FEDERAL COMMITTEE ON APPRENTICESHIP

Meeting

Pursuant to section 10 (a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct an open meeting on Thursday, March 13, from 9 a.m.–4:30 p.m.; Friday, March 14, 1975, from 9 a.m.–12 Noon in Room B–102 (A, B, C, D,), Conference Level, U.S. Department of Labor, 14th & Constitution Avenue, NW., Washington, D.C.

The Agenda for the meeting on the 13th will include:

1. Report of Subcommittee on AGC Proposed Master Training Plan for the Construction Industry.
2. Reports of Subcommittee on 29 CFR Parts 5 & 5a—Trainee and Apprenticeship.
3. Status of 29 CFR Part 29—Labor Standards for the Registration of Apprenticeship Programs (proposed rulemaking).
4. 29 CFR Part 30—Equal Employment Opportunity in Apprenticeship—Discussion of Problems.
5. Overview of Bureau of Apprenticeship and Training Operations.

The Agenda for the meeting on March 14, 1975, will include completion of recommendations of New Initiatives in Apprenticeship.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty duplicate copies are needed for the members and for inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate in such a written statement, also the nature of intended presentation and amount of time needed. The Chairman will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows:

Mrs. M. M. Winters, Bureau of Apprenticeship and Training, MA, U.S. Dept. of Labor, 601 D St. NW. (Rm. 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 19th day of February 1975.

BEN BURDETSKY,
Acting Assistant Secretary for Manpower.

[FR Doc.75-5060 Filed 2-25-75;8:45 am]

Occupational Safety and Health Administration

STANDARDS ADVISORY COMMITTEE ON HAZARDOUS MATERIALS LABELING

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Standards Advisory Committee on Hazardous Materials Labeling, established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will hold its sixth meeting on March 18 and 19, 1975. The location of the meeting is Conference Room B, Departmental Auditorium, Constitution Avenue and 14th Street, NW., Washington, D.C. The meeting will begin at 10 a.m. on the 18th and 9 a.m. on the 19th and will be open to the public.

The proposed agenda for this meeting calls for the full Committee to begin its consideration of Subgroup working papers on classification of hazardous materials and on safety data sheets. Agenda items are subject to change as priorities dictate.

Any member of the public wishing to submit written presentations or recommendations to the Committee may do so by filing such a statement, together with 20 duplicate copies, with the Committee Management Officer at least seven days prior to the meeting date. These statements will be submitted to the Committee members and will be included in the record of the meeting.

The Committee Chairman may permit oral statements before the Committee by interested persons if time permits. Anyone desiring to make an oral presentation should submit a written request to the Committee Management Officer at least seven days before the meeting. The request must have the name and address of the person wishing to appear, the capacity in which he will appear, a short summary of the intended presentation, and the approximate amount of time required for his presentation. These requests will be submitted to the Chairman for his consideration.

All materials which have been submitted to or developed by the Committee, as well as the official record of all Committee proceedings, are available for public inspection and copying at the Committee Management Office. Any copying will be done at the cost of 20¢ per page. However, no arrangement will be made to supply Committee materials to the public at any meeting site.

Any questions concerning Committee activities or requests of copies of Committee materials should be addressed to:

Nancy L. Hucke, Committee Management Officer, Occupational Safety and Health Administration, 1726 M Street, NW., Room 200, Washington, D.C. 20210, Phone: 202/961-2248, 3181.

Signed at Washington, D.C. this 20th day of February, 1975.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.75-5062 Filed 2-25-75;8:45 am]

Office of the Secretary

FEDERAL-STATE EXTENDED BENEFITS AND FEDERAL SUPPLEMENTAL BENEFITS

Availability in Certain States

The heads of the State employment security agencies of the States of Florida, Indiana, and Maryland have determined that there was a State "on" indicator in their respective States for the week ending on January 18, 1975, and an Extended Benefit Period therefore commenced in each of those States with the week beginning on February 2, 1975. Similarly, I have determined that there was a Federal Supplemental Benefit "on" indicator in each of the States of Florida, Indiana, and Maryland for the week ending on January 18, 1975, and a Federal Supplemental Benefit Period therefore commenced in each of those States with the week beginning on February 2, 1975.

A program for the payment of Federal-State Extended Benefits in Florida, Indiana, and Maryland is contained in those States' unemployment compensation laws in accordance with the Federal-State Extended Unemployment Compensation Act of 1970, 84 Stat. 708. During an Extended Benefit Period individuals who are unemployed and qualify may receive up to 13 weeks of Federal-State Extended Benefits, after they have exhausted their rights to regular unemployment benefits.

In addition, the Emergency Unemployment Compensation Act of 1974, 88 Stat. 1869, provides further rights to unemployment benefits (referred to herein as Federal Supplemental Benefits) to unemployed individuals who have exhausted their rights to regular unemployment benefits and Federal-State Extended Benefits (or are not entitled to such extended benefits because of the ending of their eligibility periods) in States such as Florida, Indiana, and Maryland, which have entered into an agreement with the Secretary of Labor of the United States pursuant to the Act. Up to 13 weeks of Federal Supplemental Benefits are payable under the Act during a Federal Supplemental Benefit Period.

The requirements of the law with respect to the beginning of an Extended Benefit Period and a Federal Supplemental Benefit Period in a State are satisfied when the rate of insured unemployment in the State reaches 4.0 per centum and remains at or above that level for 13 weeks, or the rate of insured unemployment nationally reaches 4.0 percentum or 4.5 percentum (depending on the provisions of the State law) and remains at or above that level for three consecutive calendar months. The week which triggers the beginning of an Extended Benefit Period or a Federal Supplemental Benefit Period is the thirteenth week for a State "on" indicator and is the first week following the three-month period for a National "on" indicator. An Extended Benefit Period or a Period will last for a period of at least 13 tually begins with the third week following the week for which there is an "on" indicator. An Extended Benefit Period will last for a period of at least 13 weeks, and a Federal Supplemental Benefit Period will last for a period of not less than 26 weeks.

Similarly, the "off" indicator ending an Extended Benefit Period or a Federal Supplemental Benefit Period occurs when the rate of insured unemployment

in a State is less than 4.0 percentum for a 13-week period, and when the rate of insured unemployment nationally is less than 4.0 percentum or 4.5 percentum (depending on the provisions of the State law) for three consecutive calendar months. An Extended Benefit Period or Federal Supplemental Benefit Period actually ends with the third week after the week for which there is an "off" indicator, but not earlier than the thirteenth or twenty-sixth week as stated above.

Persons who believe they may be entitled to Federal-State Extended Benefits or Federal Supplemental Benefits in the States of Florida, Indiana, or Maryland, or who wish to inquire about their rights under these programs, should contact the State employment security office or unemployment insurance claims office in their locality.

Signed at Washington, D.C. this 19th day of February, 1975.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.75-5063 Filed 2-25-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 239]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

FEBRUARY 26, 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 March 18, 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-75557. By order of February 12, 1975, the Motor Carrier Board approved the transfer to Terminal Transportation Company, a corporation, Philadelphia, Pa., of the operating rights in Certificate No. MC 136773 issued May 13, 1974, to S.T.S. Motor Freight, Inc., Stratford, N.J., authorizing the transportation of general commodities, with the usual exceptions, between points in the Philadelphia, Pa., Commercial Zone as defined by the Commission, on the one hand, and, on the other, Vineland, Millville, Minotola, Landisville, Newfield, Clayton, Glassboro, Malaga, Woodbury, Runnemede, Bridgeton, Pitman, Iona, and Franklinville, N.J. Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102, and Mervin J. Hartman, 1100 Western Saving Fund Building, Philadelphia, Pa. 19107, Attorneys for applicants.

No. MC-FC-75661. By order of February 13, 1975 the Motor Carrier Board approved the transfer to Wesley A. Costa, doing business as Costa Trucking Company, North Brunswick, N.J., of the operating rights in Permit No. MC 136370 (Sub-No. 2) issued February 2, 1973 to Shore Fruit, Inc., East Brunswick, N.J., authorizing the transportation of bananas and agricultural commodities exempt from economic regulation under section 203(b)(6) of the Interstate Commerce Act, when transported in mixed loads with bananas, from the facilities of United Fruit Co. at Albany, N.Y., and Baltimore, Md., to points in Bronx County, N.Y. George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306, Representative for applicants.

No. MC-FC-75668. By order entered February 13, 1975, the Motor Carrier Board approved the transfer to Arctic-Air Transport, Inc., Fremont, Wis., of the operating rights set forth in Certificates Nos. MC 119816, MC 119816 (Sub-No. 1), MC 119816 (Sub-No. 2), MC 119816 (Sub-No. 3), MC 119816 (Sub-No. 4), MC 119816 (Sub-No. 5), and MC 119816 (Sub-No. 6), issued by the Commission December 23, 1960, December 12, 1962, September 1, 1966, November 30, 1964, January 17, 1969, January 24, 1967, and July 30, 1968, to Fleetline, Inc., West St. Paul, Minn., authorizing the transportation of meats, meat products, and meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and materials, supplies, and equipment used in the manufacture and distribution of the commodities specified above, eggs, poultry, from, to, or between points in Minnesota, Wisconsin, Illinois, Indiana, Michigan, North Dakota, South Dakota, and Iowa; general commodities, between Newport, Minn., on the one hand, and, on the other, Minneapolis and St. Paul, Minn.; and wood charcoal and charcoal briquettes, from Marquette, Mich., to specified points in Wisconsin. Robert P. Sack, 33 E. Wentworth, Room 220, West St. Paul, Minn. 55118, practitioner for applicants.

ROBERT L. OSWALD,
Secretary.

[FR Doc.75-5152 Filed 2-25-75;8:45 am]

[Notice No. 5]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 21, 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 Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

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 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed by March 28, 1975.

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 PASSENGERS

No. MC 1515 (Deviation No. 692) (Cancels Deviation Nos. 671 and 674), GREYHOUND LINES, INC. (Eastern Division), P.O. Box 6903, 1400 W. Third Street, Cleveland, Ohio 44101, filed February 6, 1975. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: From Fayetteville, N.C., over Interstate Highway 95 to junction U.S. Highway 17 south of Hardeeville, S.C., with the following access routes: (a) From Florence, S.C., over U.S. Highway 52 to junction Interstate Highway 95, (b) From Florence, S.C., over U.S. Highway 76 to junction Interstate Highway 95, (c) From Sumter, S.C., over U.S. Highway 378 to junction Interstate Highway 95, (d) From Sumter, S.C., over U.S. Highway 521 to junction Interstate Highway 95, (e) From Manning, S.C., over U.S. Highway 521 to junction Interstate Highway 95, (f) From Manning, S.C., over U.S. Highway 301 to junction Interstate Highway 95, (g) From Summerton, S.C., over access highway to junction Interstate Highway 95, (h) From junction Interstate Highway 26 and U.S. Highway 15 over Interstate Highway 26 to junction Interstate Highway 95, (i) From St. George, S.C., over U.S. Highway 78 to junction Interstate Highway 95, (j) From Walterboro, S.C., over South Carolina Highway 64 to junction Interstate Highway 95, (k) From Walterboro, S.C., over South Carolina Highway 63 to junction Interstate Highway 95.

(l) From Yemassee, S.C., over South Carolina Highway 68 to junction Interstate Highway 95, (m) From Pocotaligo, S.C., over U.S. Highway 17 to junction Interstate Highway 95, (n) From Ridgeland, S.C., over U.S. Highway 17 to junction Interstate Highway 95, north of Ridgeland, S.C., and (o) From Ridgeland, S.C., over U.S. Highway 17 to junction

Interstate Highway 95, south of Ridgeland, S.C., and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Fayetteville, N.C., over U.S. Highway 401 to junction U.S. Highway 15, thence over U.S. Highway 15 to junction U.S. Highway 52 at Society Hill, S.C., thence over U.S. Highway 52 to junction U.S. Highway 76 at Florence, S.C., thence over U.S. Highway 76 to Sumter, S.C., thence over U.S. Highway 521 to junction U.S. Highway 301 at Manning, S.C., thence over U.S. Highway 301 to junction U.S. Highway 15 at Summerton, S.C., thence over U.S. Highway 15 to Walterboro, S.C., thence over Alternate U.S. Highway 17 to Pocotaligo, S.C., thence over U.S. Highway 17 to junction Interstate Highway 95 near Hardeeville, S.C., and return over the same routes.

By the Commission.

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

[FR Doc.75-5133 Filed 2-25-75;8:45 am]

[Notice No. 7]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 21, 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)(11)) 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 33641 (Deviation No. 84), IML FREIGHT, INC., 2175 So. 3270 West, P.O. Box 2277, Salt Lake City, Utah 84110, filed February 11, 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 Kansas City, Mo., over Interstate Highway 35 to junction U.S. Highway 54 near Wichita, Kans., thence over U.S. Highway 54 to Tucumcari, N. Mex., thence over Interstate Highway 40 (using segments of U.S. Highway 66 where Interstate Highway 40 is not completed) to Kingman, Ariz., thence over U.S. Highway 93 to Las Vegas, Nev., 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 Kansas City, Mo., over U.S. Highway 24 to junction U.S. Highway 281, thence over U.S. Highway 281 to Smith Center, Kans., thence over U.S. Highway 36 to Denver, Colo., thence over U.S. Highway 40 to Heber, Utah, thence over U.S. Highway 189 to Provo, Utah, thence over U.S. Highway 91 to Las Vegas, Nev., and return over the same route.

No. MC 89723 (Deviation No. 33), MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13th St., St. Louis, Mo. 63103, filed February 14, 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 junction Texas Farm Road 2004 and Texas Highway 288, over Texas Farm Road 2004 to junction Texas Highway 6 and return over the same routes 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 junction Texas Farm Road 2004 and Texas Highway 288 over Texas Highway 288 to Angleton, Tex., thence over Texas Highway 35 to Alvin, Tex., thence over Texas Highway 6 to junction Texas Farm Road 2004, and return over the same routes.

By the Commission.

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

[FR Doc.75-5154 Filed 2-25-75;8:45 am]

[Notice No. 706]

Assignment of Hearings

FEBRUARY 21, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after February 26, 1975.

MC 128007 Sub 61, Hofer, Inc., now assigned February 26, 1975, at Kansas City, Mo., hearing is cancelled and application dismissed.

FF-C-53, Down-East Shippers, Inc., Bay State Shippers, Inc., and Trailer Train, Inc.—Investigation of Operations, now assigned February 25, 1975, at Boston, Mass., is cancelled.

MC-F-12336, Atl, Inc.—Purchase—Associated Truck Lines, Inc., now being assigned preconference hearing on April 11, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 126714 Sub 3, Southwest Delivery Co., Inc.—Seattle—Portland, now assigned March 11, 1975 at Seattle, Wash. will be held in Room 2886 28th Floor, Federal Bldg. 915 2nd Ave.

MC 53965 Sub 95, Graves Truck Line, Inc., now assigned March 18, 1975 at Denver, Colo., will be held in Room B-230 New Custom House, 721 19th St.

MC 118520 Sub 10, Alaska Truck Transport, Inc., now asigned March 25, 1975 at Seattle, Wash., will be held in Room 2886, Federal Bldg., 915 2nd Ave.

MC-F-12368, Harry Schreiber, Schreiber Freight Carriers, Inc., Schreiber Freight Lines, Inc., W-P Truck Lines, Inc., and Gerald S. Lesher—Investigation of Control—Dorothy H. Loughman, DBA as Waynesburg-Pittsburgh Local Express, now being assigned May 3, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 31389 Sub 184, McLean Trucking Company, now being assigned April 2, 1975 (2 days) at Lexington, Ky., in a hearing room to be designated later.

MC 139946, B & L Express, Inc., now being assigned April 7, 1975 (1 week), at Lexington, Ky., in a hearing room to be designated later.

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

[FR Doc.75-5150 Filed 2-25-75;8:45 am]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

FEBRUARY 21, 1975.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIER OF PROPERTY

No. MC-F-12440. Authority sought for purchase by M & M TRANSPORTATION COMPANY, 186 Alewife Brook Parkway, Cambridge, MA 02138, of a portion of the operating rights and property of NELSON FREIGHTWAYS, INC., 47 East St., P.O. Box 356, Rockville, CT 06066, and for acquisition by QUALPECO

SERVICES, INC., 750 Third Ave., New York, NY 10017, of control of such rights and property through the purchase. Applicants' attorneys: John A. Vuono, and William A. Gray, both of 2310 Grant Bldg., Pittsburgh, PA 15219 and James E. Wilson, Suite 1032, Pennsylvania Bldg., Pennsylvania Ave., & 13th St., N.W., Washington, DC 20004. Operating rights sought to be transferred: *General commodities*, except explosives, poles frozen foods, frozen foodstuffs, dairy products as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, imitation liquid milk and cream, and chocolate candies, as a *common carrier* over regular routes, between Bridgeport, N.J., and Washington, D.C., between Chester, Pa., and Washington, D.C., serving certain specified points in Delaware, Maryland, and Virginia, with restriction; *general commodities*, except those of unusual value, livestock, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, those injurious or contaminating to other lading, frozen foods, frozen foodstuffs, dairy products as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, imitation liquid milk and cream, and chocolate candies, over irregular routes, between Boston, Mass., on the one hand, and, on the other, points in Maine and New Hampshire. Vendee 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).

By the Commission.

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

[FR Doc.75-5148 Filed 2-25-75;8:45 am]

[Ex Parte No. MC 29 (Sub-No. 3)]

SPECIAL OR CHARTERED PARTY SERVICE

FEBRUARY 20, 1975.

At the request of Robert E. Goldstein, representative for several motor bus operators in the New York-New Jersey area, the time for filing initial statements in the above-entitled proceeding has been extended from February 26, 1975, to March 28, 1975, and reply statements from March 28, 1975, to April 28, 1975.

ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-5149 Filed 2-25-75;8:45 am]

[Notice 691]

ASSIGNMENT OF HEARINGS

Correction

In FR Doc. 75-3596 appearing at pages 5832-5950 in the issue of Friday, February 7, 1975 the first and third entries should read as follows:

MC 72243 Sub 42, The Aetna Freight Lines, Inc., now being assigned April 1, 1975 (1 day), at Birmingham, Alabama, in a hearing room to be designated later.

MC 72243 Sub 39, The Aetna Freight Lines, Inc., now being assigned April 7, 1975 (1 wk.), at Birmingham, Alabama, in a hearing room to be designated later.

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER-NOTICES

Notice

FEBRUARY 18, 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(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission within 10 days from the date of this publication. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 104887 (Sub-No. E1), filed June 3, 1974. Applicant: AMERICAN VAN & STORAGE, INC., 2125 N.W. 1st Ct., Miami, Fla. 33127. Applicant's representative: Earle J. Lerette (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in the counties of Armstrong, Carson, Collinsworth, Dallam, Deafsmith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipcombe, Moore, Ochitree, Old Ham, Potter, Randall, Roberts, Wherman, and Wheeler, Tex., on the one hand, and, on the other, points in those portions of Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama, and Mississippi south of a line beginning at the Delaware-Pennsylvania State line and extending along U.S. Highway 13 to junction Maryland Highway 413, thence along Maryland Highway 413 to the Chesapeake Bay near Gusfield, Md., thence across the Chesapeake Bay to U.S. Highway 360 near Reedville, Va., thence along U.S. Highway 360 to junction U.S. Highway 301, thence along U.S. Highway 301 to junction U.S. Highway 460 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Virginia Highway 57, thence along Virginia Highway 57 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 311, thence along U.S. Highway 311 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction North Carolina Highway 115, thence along North Carolina Highway 115 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 221, thence along U.S. Highway 221 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 123, thence along U.S. Highway 123 to junction U.S. Highway 23.

Thence along U.S. Highway 23 to junction U.S. Highway 78, thence along U.S. Highway 78 to junction Alabama Highway 53, thence along Alabama Highway 53 to junction Alabama Highway 145, thence along Alabama Highway 145 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Alabama Highway 22, thence along Alabama Highway 22 to junction Alabama Highway 8, thence along Alabama Highway 8 to junction Alabama Highway 5, thence along Alabama Highway 5 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 35, thence along Alabama Highway 35 to junction Alabama Highway 96, thence along Alabama Highway 96 to junction Alabama Highway 594, thence along Alabama Highway 594 to junction Mississippi Highway 63, thence along Mississippi Highway 63 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Mississippi Highway 26, thence along Mississppi Highway 26 to junction U.S. Highway 49, thence along U.S. Highway 49 to the Mississippi State line at the Gulf of Mexico (Florida)*; (2) between points in El Paso County, Tex., on the one hand, and, on the other, points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Vermont, Virginia, Washington, D.C., and those portions of New York, Pennsylvania, West Virginia, Kentucky, Tennessee, Alabama, and Mississippi east of a line beginning at the Lake Ontario-New York Coast line and extending south along New York Highway 57 to junction New York Highway 5, thence along New York Highway 5 to junction New York Highway 14-A, thence along New York Highway 14-A to junction New York Highway 245, thence along New York Highway 245 to junction New York Highway 21, thence along New York Highway 21 to junction New York Highway 17, thence along New York Highway 17 to junction New York Highway 19, thence along New York Highway 19 to junction Pennsylvania Highway 449, thence along Pennsylvania Highway 449 to junction Pennsylvania Highway 144, thence along 144 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Pennsylvania Highway 879, thence along Pennsylvania Highway 879 to junction U.S. Highway 322.

Thence along U.S. Highway 322 to junction Pennsylvania Highway 350, thence along Pennsylvania Highway 350 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 22, thence along U.S. Highway 22 to junction Pennsylvania Highway 271, thence along Pennsylvania Highway 271 to junction Pennsylvania Highway 403, thence along Pennsylvania Highway 403 to junction U.S. Highway 219, thence

along U.S. Highway 219 to junction Pennsylvania Highway 403, thence along Pennsylvania Highway 403 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 81, thence along Pennsylvania Highway 81 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Kentucky Highway 292, thence along Kentucky Highway 292 to junction Kentucky Highway 40, thence along Kentucky Highway 40 to junction U.S. Highway 460, thence along U.S. Highway 460 to junction Kentucky Highway 30, thence along Kentucky Highway 30 to junction U.S. Highway 25, thence along U.S. Highway 25 to junction U.S. Highway 25E, thence along U.S. Highway 25E to junction Tennessee Highway 33, thence along Tennessee Highway 33 to junction Tennessee Highway 61 near Graveston, Tenn., thence west along Tennessee Highway 61 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 70, thence along U.S. Highway 70 to junction Tennessee Highway 68, thence along Tennessee Highway 68 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Tennessee Highway 58, thence along Tennessee Highway 58 to junction Tennessee Highway 30, thence along Tennessee Highway 30 to junction U.S. Highway 11.

Thence along U.S. Highway 11 to junction U.S. Highway 72, thence along U.S. Highway 72 to junction U.S. Highway 231 in Alabama, thence along U.S. Highway 231 to junction Alabama Highway 26, thence along Alabama Highway 26 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Alabama Highway 69, thence along Alabama Highway 69 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction Alabama Highway 35, thence along Alabama Highway 35 to junction Alabama Highway 96, thence along Alabama Highway 96 to junction Alabama Highway 594, thence along Alabama Highway 594 to junction Mississippi Highway 63, thence along Mississippi Highway 63 to junction U.S. Highway 98, thence along U.S. Highway 98 to junction Mississippi Highway 26, thence along Mississippi Highway 26 to junction U.S. Highway 49, thence along U.S. Highway 49 to the Mississippi State line at the Gulf of Mexico (Florida)*; (3) between points in the counties of Brewster, Crane, Culberson, Ector, Hudspeth, Jeff Davis, Loving, Midland, Pecos, Presidio, Reeves, Terrell, Upton, Ward, and Winkler, Tex., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Vermont, Virginia, Washington, D.C., and those portions of New York, Pennsylvania, Maryland, West Virginia, Kentucky, Tennessee, Georgia, and Alabama east of a line beginning at the U.S.-Canada International Boundary line and extending south along New York Highway 30, thence along New York Highway 30 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 3, thence along New York Highway 3 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 12, thence along New York Highway 12 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 13.

Thence along New York Highway 13 to junction New York Highway 14, thence along New York Highway 14 to junction New York Highway 328, thence along New York Highway 328 to junction U.S. Highway 15 in Pennsylvania, thence along U.S. Highway 15 to junction Pennsylvania Highway 287, thence along Pennsylvania Highway 287 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction Pennsylvania Highway 26, thence along Pennsylvania Highway 26 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 60 in West Virginia, thence along U.S. Highway 60 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction West Virginia Highway 3, thence west along West Virginia Highway 3 to junction West Virginia Highway 99, thence along West Virginia Highway 99 to junction West Virginia Highway 85, thence along West Virginia Highway 85 to junction West Virginia Highway 10, thence along West Virginia Highway 10 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction U.S. Highway 25-E near Middlesboro, Ky., thence along U.S. Highway 25-E to junction Tennessee Highway 33, thence along Tennessee Highway 33 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Interstate Highway 75 near Ooltewah, Tenn., thence along Interstate Highway 75 to junction Georgia Highway 53, thence along Georgia Highway 53 to junction U.S. Highway 411, thence along U.S. Highway 411 to junction Alabama Highway 21.

Thence along Alabama Highway 21 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Alabama Highway 22, thence along Alabama Highway 22 to junction Alabama Highway 5, thence along Alabama Highway 5 to junction U.S. Highway 43, thence along U.S. Highway 43 to termination at Mobile Bay, Mobile, Ala. (Florida)*; (4) between those points in the counties of Edwards, Kinney, Maverick, Real, and Val Verde, Tex., on the one hand, and, on the other, points in Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, D.C., West Virginia, and those portions of Michigan, Indiana, Ohio, Kentucky, Tennessee, and Alabama east of a line beginning at Sault St. Marie, Mich., and extending south along interstate Highway 75 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Michigan Highway 37, thence along Michigan Highway 37 to junction Michigan Highway 113, thence along Michigan Highway 113 to junction U.S. Highway 131, thence along U.S. Highway 131 to junction Michigan Highway 55, thence along Michigan Highway 55 to junction Michigan Highway 37, thence along Michigan Highway 37 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Michigan Highway 78, thence along Michigan Highway 78 to junction Michigan Highway 66, thence along Michigan Highway 66 to junction Michigan Highway 60, thence along Michigan Highway 60 to junction Michigan Highway 66, thence south along Michigan Highway 66 to junction Interstate Highway 80.

Thence along Interstate Highway 80 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 30S, thence along U.S. Highway 30S to junction U.S. Highway 25, thence along U.S. Highway 25 to junction Ohio Highway 29, thence west along Ohio Highway 29 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction U.S. Highway 27, thence along U.S. Highway 27 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction U.S. Highway 35, thence along U.S. Highway 35 to junction Indiana Highway 227, thence along Indiana Highway 227 to junction Ohio Highway 177, thence along Ohio Highway 177 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction Indiana Highway 62, thence along Indiana Highway 62 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 42, thence along U.S. Highway 42 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction Kentucky Highway 90, thence along Kentucky Highway 90 to junction Kentucky Highway 163, thence along Kentucky Highway 163 to junction Tennessee Highway 52, thence along Tennessee Highway 52 to junction Tennessee Highway 53, thence long Tennessee Highway 53 to junction Tennessee Highway 135, thence along Tennessee Highway 135 to junction Tennessee Highway 42, thence along Tennessee Highway 42 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Tennessee Highway 99, thence along Tennessee Highway 99 to junction U.S. Highway 43, thence along U.S. Highway 43 to junction U.S. Highway Alternate 72, thence along U.S. Highway Alternate 72 to junction U.S.

Highway 31, thence along U.S. Highway 31 to junction Interstate Highway 65, thence along Interstate Highway 65 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Alabama Highway 22 near Clanton, thence along Alabama Highway 22 to junction Alabama Highway 5, thence along Alabama Highway 5 to junction U.S. Highway 43, thence along U.S. Highway 43 to termination at Mobile, Ala. (Florida)*. The purpose of this filing is to eliminate the gateways indicated by asterisks above.

No. MC 114211 (Sub-No. E737), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road-making machinery and contractors' equipment and supplies*, from Green Island, Minn., to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of Stinar Corporation located at or near Minneapolis, Minn.

No. MC 114211 (Sub-No. E738), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment*, from Green Isle, Minn., to points in Louisiana, and to points in that part of California on and south of a line beginning at the California-Nevada State line extending along California Highway 178 to junction California Highway 127, thence along California Highway 127 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to junction California Highway 99, thence along California Highway 99 to junction California Highway 137, thence along California Highway 137 to junction California Highway 41, thence along California Highway 41 to junction California Highway 46, thence along California Highway 46 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction California Highway 1, thence along California Highway 1 to Santa Cruz, Calif., to points in that part of Nevada on and south of a line beginning at the Nevada-Arizona State line extending along U.S. Highway 93 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Nevada Highway 16, thence along Nevada Highway 16 to junction Nevada Highway 52, thence along Nevada Highway 52 to the California-Nevada State line, to points in that part of Arizona on and south of a line beginning at the Arizona-New Mexico State line extending along U.S. Highway 66 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-Nevada State line, to points in that part of New Mexico on and south of a line beginning at the Texas-Oklahoma State line extending along New Mexico Highway 102 to junction New Mexico Highway 65.

Thence along New Mexico Highway 65 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction U.S. Highway 85, thence along U.S. Highway 85 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 66, thence along U.S. Highway 66 to the Arizona-New Mexico State line to points in that part of Oklahoma on and south of a line beginning at the Oklahoma-Arkansas State line extending along U.S. Highway 62 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Oklahoma Highway 33, thence along Oklahoma Highway 33 to junction Oklahoma Highway 88, thence along Oklahoma Highway 88 to junction Oklahoma Highway 20, thence along Oklahoma Highway 20 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Oklahoma Highway 15, thence along Oklahoma Highway 15 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction Oklahoma Highway 51, thence along Oklahoma Highway 51 to the Oklahoma-Texas State line, to points in that part of Arkansas on and south of a line beginning at the Oklahoma-Arkansas State line extending along U.S. Highway 62 to junction Arkansas Highway 16, thence along Arkansas Highway 16 to junction Arkansas Highway 23, thence along Arkansas Highway 23 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Arkansas Highway 130, thence along Arkansas Highway 130 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction U.S. Highway 49, thence along U.S. Highway 49 to the Arkansas-Mississippi State line, to points in that part of Mississippi on and south of a line beginning at the Mississippi-Arkansas State line extending along U.S. Highway 49 to junction U.S. Highway 61.

Thence along U.S. Highway 61 to junction U.S. Highway 40, thence along U.S. Highway 49 to junction Mississippi Highway 12, thence along Mississippi Highway 12 to junction Mississippi Highway 35, thence along Mississippi Highway 35 to junction Mississippi Highway 14, thence along Mississippi Highway 14 to the Mississippi-Alabama State line, to points in that part of Alabama on and south of a line beginning at the Alabama-Mississippi State line extending along Alabama Highway 32 to junction Alabama Highway 17, thence along Alabama Highway 17 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction Alabama Highway 97, thence along Alabama Highway 97 to junction U.S. Highway 331, thence along U.S. Highway 331 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction U.S. Highway 231, thence along U.S. Highway 231 to the Alabama-Florida State line, and to points in that part of Florida on and west of a line beginning at the Florida-Alabama State line extending along U.S. Highway 231 to junction U.S. Highway 90, thence along U.S. Highway 90 to junction U.S. Highway 319, thence along U.S. Highway 319 to junction U.S. Highway 98, thence along U.S. Highway 98 to St. Teresa, Fla. The purpose of this filing is to eliminate the gateways of points in Kansas and Claremore, Okla.

No. MC 114211 (Sub-No. E739), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof, from Clay Center, Kans., to points in Iowa. The purpose of this filing is to eliminate the gateways of Beatrice and Nebraska City, Nebr.

No. MC 114211 (Sub-No. E740), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof, (except commodities the transportation of which because of size or weight requires the use of special equipment), from Maize, Kans., to points in that part of Texas on and south of a line beginning at the U.S.-Mexico Boundary line extending along U.S. Highway 377 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Interstate Highway 35E, thence along Interstate Highway 35E to junction U.S. Highway 75, thence along U.S. Highway 75 to the Texas-Oklahoma State line (excluding Dallas, Fort Worth, Houston, Galveston, Abilene, Sweetwater, Big Springs, Midland, Odessa, and El Paso). The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 114211 (Sub-No. E741), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof (except commodities the transportation of which, because of size or weight requires the use of special equipment), from Great Bend, Kans., to points in that part of Texas on and east of a line beginning at the Oklahoma-Texas State line extending along U.S. Highway 75 to junction Interstate Highway 35E, thence along Interstate Highway 35E to junction Interstate Highway 35, thence along Interstate Highway 35 to junction Texas Highway 85, thence along Texas Highway 85 to junction U.S. Highway 277, thence along U.S. Highway 277 to U.S.-Mexico Boundary line (except Dallas, Fort Worth, Houston, Galveston, Abilene, Sweetwater, Big Springs, Midland, Odessa and El

Paso). The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 114211 (Sub-No. E742), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof, (except commodities the transportation of which because of size or weight requires the use of special equipment), from Clay Center, Kans., to points in that part of Texas on and south of a line beginning at the Arkansas-Texas State line extending along U.S. Highway 82 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Interstate Highway 35E, thence along Interstate Highway 35E to junction Texas Highway 22, thence along Texas Highway 22 to junction Texas Highway 218, thence along Texas Highway 218 to junction U.S. Highway 84, thence along U.S. Highway 84 to junction U.S. Highway 67, thence along U.S. Highway 67 to junction U.S. Highway 285, thence along U.S. Highway 285 to junction U.S. Highway 80, thence along U.S. Highway 80 to McNary, Tex., (except Dallas, Fort Worth, Houston, Galveston, Abilene, Sweetwater, Big Springs, Midland, Odessa, and El Paso). The purpose of this filing is to eliminate the gateway of Tulsa, Okla.

No. MC 114211 (Sub-No. E743), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof, from Green Isle, Minn., to points in that part of South Dakota on and west of a line beginning at the North Dakota-South Dakota State line extending along U.S. Highway 281 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction South Dakota Highway 45, thence along South Dakota Highway 45 to junction South Dakota Highway 34, thence along South Dakota Highway 34 to junction South Dakota Highway 47, thence along South Dakota Highway 47 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction U.S. Highway 83, thence along U.S. Highway 83 to the South Dakota-Nebraska State line, and to points in that part of Nebraska on and west of a line beginning at the South Dakota-Nebraska State line extending along U.S. Highway 83 to junction Nebraska Highway 2, thence along Nebraska Highway 2 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Nebraska State line, and to points in Wyoming. The purpose of this filing is to eliminate the gateways of Nassau, Minn., and points in South Dakota.

No. MC 114211 (Sub-No. E744), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof (except commodities the transportation of which because of size or weight requires the use of special equipment, and except commodities described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from Maize, Kans., to points in Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Tennessee, Kentucky, South Carolina, North Carolina, Virginia, New Jersey, West Virginia, and to points in that part of Washington on and west of a line beginning at the Washington-Oregon State line extending along U.S. Highway 97 to the United States-Canada Boundary line, to points in that part of Oregon on and west of a line beginning at the Oregon-California State line extending along U.S. Highway 97 to the Oregon-Washington State line, to points in that part of California on and west of a line beginning at the California-Arizona State line extending along Interstate Highway 10 to junction Interstate Highway 15, thence along Interstate Highway 15 to junction California Highway 58, thence along California Highway 58 to junction U.S. Highway 395, thence along U.S. Highway 395 to junction California Highway 120, thence along California Highway 120 to junction California Highway 99, thence along California Highway 99 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction U.S. Highway 97, thence along U.S. Highway 97 to the California-Oregon State line, and to points in that part of Oklahoma on and southeast of a line beginning at the Oklahoma-Arkansas State line extending along Oklahoma Highway 20 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Indian National Turnpike, thence along Indian National Turnpike to Junction U.S. Highway 271, thence along U.S. Highway 271 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E745), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except in each instance, commodities which because of size or weight, requires the use of special equipment, and except commodities described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from Perry, Okla., to points in Washington, Oregon, California, Nevada, Idaho, Montana, North Dakota, Minnesota, Wisconsin, Arkansas, Louisiana, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, New Jersey; to points in that part of Oklahoma on and east of a line beginning at the Oklahoma-Missouri State line extending along U.S. Highway 66 to junction Oklahoma Highway 88, thence along Oklahoma Highway 88 to junction Oklahoma Highway 33, thence along Oklahoma Highway 33 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Oklahoma-Arkansas State line; to points in that part of Iowa on and north of a line beginning at the Iowa-Nebraska State line extending along U.S. Highway 275, to junction U.S. Highway 34, thence along U.S. Highway 34 to junction U.S. Highway 169, thence along U.S. Highway 169 to the Iowa-Missouri State line; to points in that part of South Dakota on and north of a line beginning at the South Dakota-Minnesota State line extending along U.S. Highway 16 to junction South Dakota Highway 37.

Thence along South Dakota Highway 37 to junction U.S. Highway 212, thence along U.S. Highway 212 to junction South Dakota Highway 79, thence along South Dakota Highway 79 to junction U.S. Highway 18, thence along U.S. Highway 18 to the South Dakota-Wyoming State line; to points in that part of Wyoming on and north of a line beginning at the Wyoming-South Dakota State line extending along U.S. Highway 18 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Wyoming Highway 59, thence along Wyoming Highway 59 to junction Wyoming Highway 387, thence along Wyoming Highway 387 to junction U.S. Highway 87, thence along U.S. Highway 87 to junction U.S. Highway 20/26, thence along U.S. Highway 20/26 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction Wyoming Highway 28, thence along Wyoming Highway 28 to junction U.S. Highway 187, thence along U.S. Highway 187 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Wyoming Highway 530, thence along Wyoming Highway 530 to the Wyoming-Utah State line; to points in that part of Utah on and west of a line beginning at the Utah-Wyoming State line extending along Utah Highway 44 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Utah Highway 33, thence along Utah Highway 33 to junction U.S. Highway 6/50, thence along U.S. Highway 6/50 to junction Utah Highway 10, thence along Utah Highway 10 to junction Utah Highway 4, thence along Utah Highway 4 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Utah Highway 20, thence along Utah Highway 20 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction Utah Highway 14, thence along Utah Highway 14 to junction U.S. Highway 89, thence along U.S. Highway 89 to the Utah-Arizona State line; and to points in that part of Arizona on and west of a line beginning at the Utah-Arizona State line extending along U.S. Highway 89 to junction U.S. Highway 66/180, thence along U.S. Highway 66/180 to junction Arizona Highway 87, thence along Arizona Highway 87 to junction Arizona Highway 188, thence along Arizona Highway 188 to junction Arizona Highway 88, thence along Arizona High-

way 88 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 70, thence along U.S. Highway 70 to the Arizona-New Mexico State line. The purpose of this filing is to eliminate the gateway of Claremore, Okla.

No. MC 114211 (Sub-No. E746), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except in each instance, commodities which because of size or weight requires the use of special equipment, and except commodities described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459, from Springfield, Ill., to points in California, Arizona, New Mexico; to points in that part of Oregon on and west of a line beginning at the Oregon-California State line extending along U.S. Highway 97 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Oregon Highway 126, thence along Oregon Highway 126 to junction Oregon Highway 22, thence along Oregon Highway 22 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction U.S. Highway 30, thence along U.S. Highway 30 to Kelso, Wash.; to points in that part of Nevada on and southwest of a line beginning at the Nevada-Utah State line extending along U.S. Highway 6 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Nevada Highway 49, thence along Nevada Highway 49 to junction Nevada Highway 81, thence along Nevada Highway 81 to the California-Nevada State line; to points in that part of Utah on and south of a line beginning at the Utah-Colorado State line extending along U.S. Highway 6 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Utah Highway 26, thence along Utah Highway 26 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Utah-Nevada State line; to points in that part of Colorado on and south of a line beginning at the Colorado-Kansas State line extending along U.S. Highway 160 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Utah State line; and to points in that part of Oklahoma on and west of a line beginning at the Oklahoma-Arkansas State line extending along U.S. Highway 70 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction Oklahoma Highway 20, thence along Oklahoma Highway 20 to junction Oklahoma Highway 18, thence along Oklahoma Highway 18 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 77, thence along U.S. Highway 77 to the Oklahoma-Kansas State line. The purpose of this filing is to eliminate the gateways of points in Kansas and Claremore, Okla.

No. MC 114211 (Sub-No. E747), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grading, paving, and finishing machinery, equipment, parts, accessories, and attachments*, between Streator, Ill., on the one hand, and, on the other, points in South Dakota; points in that part of Minnesota on and west of a line beginning at the Iowa-Minnesota State line extending along Minnesota Highway 60 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction Minnesota Highway 7, thence along Minnesota Highway 7 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-South Dakota State line; points in that part of Iowa on and west of a line beginning at the Nebraska-Iowa State line extending along Iowa Highway 10 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 60, thence along Iowa Highway 60 to the Iowa-Minnesota State line; points in that part of Nebraska on and northwest of a line beginning at the Colorado-Nebraska State line extending along Nebraska Highway 19 to junction U.S. Highway 385, thence along U.S. Highway 385 to junction Nebraska Highway 87, thence along Nebraska Highway 87 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 81, thence along U.S. Highway 81 to the Nebraska-South Dakota State line; and points in that part of Colorado on and west of a line beginning at the Nebraska-Colorado State line extending along Colorado Highway 113 to junction U.S. Highway 138, thence along U.S. Highway 138 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Colorado Highway 71, thence along Colorado Highway 71 to junction U.S. Highway 350, thence along U.S. Highway 350 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-New Mexico State line. The purpose of this filing is to eliminate the gateway of Canton, S. Dak.

No. MC 114211 (Sub-No. E748), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except those with vehicle beds, bed frames, and fifth wheels), *equipment* designed for use in conjunction with tractors, *attachments* for the above-described commodities, and *parts* for the above-described commodities in mixed loads with such commodities limited to commodities utilized as road building equipment, from Perry, Okla., to points in that part of Oregon on and north of a line beginning at the Washington-Oregon State line extending along U.S. Highway 395/730 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 26, thence along U.S. Highway 26 to Carnon Beach Jct., Oreg.; to points in that part of Washington on and north of a line beginning at the Montana-Washington State line extending along U.S. Highway 12 to the Washington-Oregon State line; to points in that part of Idaho on and north of a line beginning at the Idaho-Montana State line extending along U.S. Highway 12 to the Washington-Idaho State line; to points in that part of Montana on and north of a line beginning at the South Dakota-Montana State line extending along Interstate Highway 94 to Junction U.S. Highway 12, thence along U.S. Highway 12 to junction U.S. Highway 91, thence U.S. Highway 91 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Idaho-Montana State line; to points in that part of North Dakota on and north of a line beginning at the Minnesota-North Dakota State line extending along Interstate Highway 94 to the Montana-North Dakota State line; and to points in that part of Minnesota on and north of a line beginning at the North Dakota-Minnesota State line extending along Interstate Highway 94 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to the Minnesota-Wisconsin State line. The purpose of this filing is to eliminate the gateway of points in Kansas, and that part of the Fargo, N. Dak., commercial zone, located in Moorhead, Minn.

No. MC 114211 (Sub-No. E749), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from Grandview, Mo., to points in Washington; to points in that part of Wisconsin on and north of a line beginning at the Minnesota-Wisconsin State line extending along Wisconsin Highway 25 to junction Wisconsin Highway 35, thence along Wisconsin Highway 35 to junction Wisconsin Highway 37, thence along Wisconsin Highway 37 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction Wisconsin Highway 73, thence along Wisconsin Highway 73 to junction Wisconsin Highway 54, thence along Wisconsin Highway 54 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 41, thence along U.S. Highway 41 to junction U.S. Highway 141, thence along U.S. Highway 141 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to Kewaunee, Ill.; to points in that part of North Dakota on and north of a line beginning at the South Dakota-North Dakota State line extending along U.S. Highway 12 to

the Montana-North Dakota State line; to points in that part of South Dakota on and north of a line beginning at the South Dakota-Minnesota State line extending along U.S. Highway 12 to the North Dakota-South Dakota State line; to points in that part of Montana on and north of a line beginning at the North Dakota-Montana State line extending along U.S. Highway 12 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 91, thence along U.S. Highway 91 to junction Montana Highway 43, thence along Montana Highway 43 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Idaho-Montana State line; to points in that part of Idaho on and north of a line beginning at the Idaho-Montana State line extending along U.S. Highway 12 to junction Idaho Highway 13, thence along Idaho Highway 13 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Washington-Idaho State line; and to points in that part of Oregon on and northwest of a line beginning at the Washington-Oregon State line extending along Oregon Highway 11 to junction Interstate Highway 80N, thence along Interstate Highway 80N to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Oregon Highway 42, thence along Oregon Highway 42 to Coquille, Oreg. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, and Minneapolis, Minn.

No. MC 114211 (Sub-No. E750), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Road building equipment (except in each instance, commodities which because of size or weight, require the use of special equipment, and except commodities described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from Deerfield, Ill., to points in Arizona, New Mexico; and to points in that part of Oklahoma on and southwest of a line beginning at the Arkansas-Oklahoma State line extending along Interstate Highway 40 to junction Muskogee Turnpike, then along Muskogee Turnpike to junction U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Kansas State line; to points in that part of Colorado on and south of a line beginning at the Kansas-Colorado State line extending along U.S. Highway 50 to junction Interstate Highway 25, thence along Interstate Highway 25 to junction U.S. Highway 160, thence along U.S. Highway 160 to the Colorado-New Mexico State line; to points in that part of Utah on and southwest of a line beginning at the Arizona-Utah State line extending along U.S. Highway 91 to junction Utah Highway 56, thence along Utah Highway 56 to the Utah-Nevada State line; to points in that part of Nevada on and southwest of a line beginning at the Utah-Nevada State line extending along Nevada Highway 25 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Alternate U.S. Highway 95, thence along Alternate U.S. Highway 95 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 395, thence along U.S. Highway 395 to the Nevada-California State line; to points in that part of California on and west of a line beginning at the Nevada-California State line extending along U.S. Highway 395 to junction California Highway 299, thence along California Highway 299 to junction California Highway 139, thence along California Highway 139 to the California-Oregon State line; and to points in that part of Oregon on and south of a line beginning at the California-Oregon State line extending along Oregon Highway 39 to junction Oregon Highway 140, thence along Oregon Highway 140 to junction Oregon Highway 66, thence along Oregon Highway 66 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction U.S. Highway 199, thence along U.S. Highway 199 to the California-Oregon State line. The purpose of this filing is to eliminate the gateways of points in Kansas, and Claremore, Okla.

No. MC 114211 (Sub-No. E751), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment*, between Streator, Ill., on the one hand, and, on the other, points in Texas and Oklahoma. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 114211 (Sub-No. E753), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors*, with or without attachments, *tractors attachments*, and *parts* of tractors and tractor attachments when moving in mixed loads with commodities specified above, between Deerfield, Ill., on the one hand, and, on the other, points in Washington, Oregon, California, Nevada, Utah, Arizona, New Mexico, Alaska; points in that part of Idaho on and west-south-east of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 95 to junction Interstate Highway 80N, thence along Interstate Highway 80N to junction Interstate Highway 15, thence along Interstate Highway 15 to junction U.S. Highway 20, thence along U.S. Highway 20 to the Idaho-Montana State line; points in that part of Wyoming on and southwest of a line beginning at the Montana-Wyoming State line extending along U.S. Highway 20 to junction Wyoming Highway 120, thence along Wyoming Highway 120 to junction Wyoming Highway 789, thence along Wyoming Highway 789 to junction U.S. Highway 287, thence along U.S. Highway 287 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction U.S. Highway 85, thence along U.S. Highway 85 to the Wyoming-Colorado State line; points in that part of Colorado on, west, and south of a line beginning at the Wyoming-Colorado State line extending along U.S. Highway 85 to junction Colorado Highway 14, thence along Colorado Highway 14 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Colorado-Nebraska State line; points in that part of Nebraska on and south of a line beginning at the Colorado-Nebraska State line extending along U.S. Highway 6 to junction U.S. Highway 83.

Thence along U.S. Highway 83 to the Nebraska-Kansas State line; points in that part of Kansas on and southwest of a line beginning at the Nebraska-Kansas State line extending along U.S. Highway 83 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Kansas-Oklahoma State line; points in that part of Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 69 to junction Indian Nation Turnpike, thence along Indian Nation Turnpike to junction U.S. Highway 271, thence along U.S. Highway 271 to the Oklahoma-Texas State line; and points in that part of Texas on and west of a line beginning at the Oklahoma-Texas State line extending along U.S. Highway 271 to junction Texas Highway 49, thence along Texas Highway 49 to junction U.S. Highway 59, thence along U.S. Highway 59 to junction U.S. Highway 69, thence along U.S. Highway 69 to the Gulf of Mexico, restricted to the transportation of commodities originating at or destined to Topeka, Kans., except commodities in foreign commerce. The purpose of this filing is to eliminate the gateway of Topeka, Kans.

No. MC 114211 (Sub-No. E780), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm machinery and parts thereof*, from Independence, Mo., to points in Washington; to points in that part of North Dakota on and northwest of a line beginning at the Minnesota-North Dakota State line extending along Interstate Highway 94 to junction U.S. Highway 281, thence along U.S. Highway 281 to the North Dakota-South Dakota State line, thence along the North Dakota-South Dakota State line to junction U.S.

Highway 12, thence along U.S. Highway 12 to the North Dakota-Minnesota State line; to points in that part of South Dakota on and north of a line beginning at the North Dakota-South Dakota State line extending along U.S. Highway 281 to junction U.S. Highway 12, thence along U.S. Highway 12 to the South Dakota-North State line; to points in that part of Wisconsin on and north of a line beginning at Kewaunee, Wis., extending along Wisconsin Highway 29 to junction Wisconsin Highway 25, thence along Wisconsin Highway 25 to the Wisconsin-Minnesota State line; to points in that part of Montana on and north of a line beginning at the North Dakota-Montana State line extending along U.S. Highway 12 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Montana-Idaho State line; to points in that part of Idaho on and north of a line beginning at the Montana-Idaho State line extending along U.S. Highway 12 to the Idaho-Washington State line; and to points in that part of Oregon on and northwest of a line beginning at the Washington-Oregon State line extending along Oregon Highway 11 to junction Interstate Highway 80N, thence along Interstate Highway 80N to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Oregon Highway 38, thence along Oregon Highway 38 to junction U.S. Highway 101, thence along U.S. Highway 101 to Coquille Pt., Oreg. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa, and Minneapolis, Minn.

No. MC 114211 (Sub-No. E781), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, the transportation of which because of size or weight, requires special equipment, between Independence, Mo., on the one hand, and, on the other, points in North Dakota, Minnesota, and points in that part of Illinois on and north of a line beginning at the Iowa-Illinois State line extending along U.S. Highway 136 to junction U.S. Highway 67, thence along U.S. Highway 167 to junction Illinois Highway 125, thence along Illinois Highway 125 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 45, Iowa-Illinois Statel ine extending along thence along U.S. Highway 45 to junction Illinois Highway 16, thence along Illinois Highway 16 to junction Illinois Highway 1, thence along Illinois Highway 1 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 114211 (Sub-No. E782), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and parts* for agricultural implements, the transportation of which, because of size or weight, requires special equipment, between Independence, Mo., on the one hand, and, on the other, points in South Dakota; points in that part of Colorado on and northwest of a line beginning at the Colorado-Kansas State line extending along U.S. Highway 24 to junction Colorado Highway 71, thence along Colorado Highway 71 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 350, thence along U.S. Highway 350 to junction Interstate Highway 25, thence along Interstate Highway 25 to the New Mexico-Colorado State line; points in that part of Kansas on and north of a line beginning at the Colorado-Kansas State line extending along U.S. Highway 24 to junction U.S. Highway 383, thence along U.S. Highway 383 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 183, thence along U.S. Highway 183 to the Kansas-Nebraska State line; and points in that part of Iowa on and west of a line beginning at the South Dakota-Iowa State line extending along U.S. Highway 75 to junction Iowa Highway 60, thence along Iowa Highway 60 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction U.S. Highway 59, thence along U.S. Highway 59 to the Minnesota-Iowa State line. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr.

No. MC 114211 (Sub-No. E783), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof, from Richardton, N. Dak., to points in Missouri and to points in that part of Texas on and east of a line beginning at the Oklahoma-Texas State line extending along U.S. Highway 183 to junction U.S. Highway 283, thence along U.S. Highway 283 to junction U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 277, thence along U.S. Highway 277 to Del Rio, Tex. The purpose of this filing is to eliminate the gateways of points in Iowa and Beatrice, Nebr.

No. MC 114211 (Sub-No. E784), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural implements and parts* for agricultural implements, the transportation of which, because of size or weight, requires special equipment, between Grandview, Mo., on the one hand, and, on the other, points in South Dakota, and points in that part of Colorado on and northwest of a line beginning at the Colorado-Nebraska State line extending along U.S. Highway 24 to junction Colorado Highway 71, thence along Colorado Highway 71 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 350, thence along U.S. Highway 350 to junction Interstate Highway 25, thence along Interstate Highway 25 to the New Mexico-Colorado State line. The purpose of this filing is to eliminate the gateway of Beatrice, Nebr.

No. MC 114211 (Sub-No. E785), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making and contractors' equipment*, from Madison, S. Dak., to points in Virginia, Maryland, District of Columbia, Delaware, New Jersey, Pennsylvania, Connecticut, Rhode Island, New York, Massachusetts, Vermont, New Hampshire, and Maine, restricted to the transportation of traffic originating at or destined to the plant sites, warehouse sites, and experimental farms of Deere and Company. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa.

No. MC 114211 (Sub-No. E786), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, between Richardton N. Dak., on the one hand, and, the other, points in that part of Nebraska on and east of a line beginning at the South Dakota-Nebraska State line extending along U.S. Highway 81 to the Nebraska-Kansas State line, restricted against the transportation of commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling and restricted against the transportation of those commodities described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459. The purpose of this filing is to eliminate the gateways of Nassau, Minn., and points in South Dakota.

No. MC 114211 (Sub-No. E787), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors, road making machinery and contractors' equipment*, from Mitchell, S. Dak., to points in Maine, Vermont, New Hampshire, Connecticut, Rhode Island, Massachusetts, New York, Pennsylvania, Virginia, Maryland, Delaware, District of Columbia, and New Jersey, restricted to the transportation of traffic originating at or destined to the plant sites, ware-

house sites, and experimental farms of Deere and Company. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa.

No. MC 114211 (Sub-No. E788), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof* (except in each instance, commodities which because of size or weight require the use of special equipment, and except commodities described in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), from Richardton, N. Dak., to points in Arkansas, Louisiana, Mississippi, Alabama, Florida; to points in that part of South Carolina on and south of a line beginning at the Georgia-South Carolina State line extending along U.S. Highway 76 to junction U.S. Highway 178, thence along U.S. Highway 178 to junction U.S. Highway 378, thence along U.S. Highway 378 to junction U.S. Highway 501, thence along U.S. Highway 501 to Myrtle Beach, S.C.; to points in that part of Georgia on and south of a line beginning at the North Carolina-Georgia State line extending along Georgia Highway 11 to junction U.S. Highway 76, thence along U.S. Highway 76 to the Georgia-South Carolina State line; to points in that part of Tennessee on and west of a line beginning at the Kentucky-Tennessee State line extending along Tennessee Highway 69 to junction Interstate Highway 40, thence along Interstate Highway 40 to junction Tennessee Highway 13, thence along Tennessee Highway 13 to junction Tennessee Highway 50, thence along Tennessee Highway 50 to junciton U.S. Highway 451, thence along U.S. Highway 431 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Tennessee-Georgia State line; and to points in that part of Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 75 to junction Interstate Highway 44, thence along Interstate Highway 44 to junction Bailey Turnpike, thence along Bailey Turnpike to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateways of points in Iowa; Beatrice and Nebraska City, Nebr.; and Claremore, Okla.

No. MC 114211 (Sub-No. E789), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm tractors* (except those with vehicle beds, bed frames, and fifth wheels), *equipment* designed for use in conjunction with farm tractors, *parts thereof*, the transportation of which, because of size or weight, requires special equipment, from Springfield, Mo., to points in Washington; to points in that part of Minnesota on and northwest of a line beginning a the North Dakota-Minnesota State line extending along U.S. Highway 10 to junction Minnesota Highway 34, thence along Minnesota Highway 34 to junction U.S. Highway 71, thence along U.S. Highway 71 to the U.S.-Canada International Boundary line; to points in that part of North Dakota on, north, and west of a line beginning at the Minnesota-North Dakota State line extending along Interstate Highway 94 to junction North Dakota Highway 3, thence along North Dakota Highway 3 to the North Dakota-South Dakota State line; to points in that part of Montana on and north of a line beginning at the North Dakota-Montana State line extending along U.S. Highway 12 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Montana-Idaho State line; to points in that part of Idaho on and north of a line beginning at the Montana-Idaho State line extending along U.S. Highway 12 to the Washington-Idaho State line; and to points in that part of Oregon on and northwest of a line beginning at the Washington-Oregon State line extending along Oregon Highway 11 to junction Interstate Highway 80N, thence along Interstate Highway 80N to junction Interstate Highway 5, thence along Interstate Highway 5 to junction U.S. Highway 199, thence along U.S. Highway 199 to the Oregon-California State line. The purpose of this filing is to eliminate the gateways of points in Iowa, and Fargo, N. Dakota.

No. MC 114211 (Sub-No. E790), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery*, between Richardton, N. Dak., on the one hand, and, on the other, points in that part of Oklahoma on and east of a line beginning at the Kansas-Oklahoma State line extending along U.S. Highway 281 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction Oklahoma Highway 19, thence along Oklahoma Highway 19 to junction U.S. Highway 283, thence along U.S. Highway 283 to the Oklahoma-Texas State line, and points in that part of Kansas on and east of a line beginning at the Nebraska-Kansas State line extending along U.S. Highway 81 to junction Kansas Highway 9, thence along Kansas Highway 9 to junction Kansas Highway 14, thence along Kansas Highway 14 to junction U.S. Highway 156, thence along U.S. Highway 156 to junction U.S. Highway 281, thence along U.S. Highway 281 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateways of points in Iowa and Beatrice and Nebraska City, Nebr.

No. MC 114211 (Sub-No. E791), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, between Springfield, Mo., on the one hand, and, on the other, points in Minnesota, North Dakota, and points in that part of Illinois on and north of a line beginning at the Iowa-Illinois State line extending along U.S. Highway 136 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 9, thence along Illinois Highway 9 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 114211 (Sub-No. E792), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road making machinery, and contractors' equipment and supplies*, from Mitchell, S. Dak., to points in Alabama, Georgia, Florida, South Carolina, North Carolina, Kentucky, West Virginia, Indiana, Ohio, Michigan; to points in that part of Louisiana on and east of a line beginning at the Louisiana-Mississippi State line extending along Interstate Highway 55 to junction Interstate Highway 12, thence along Interstate Highway 12 to junction Interstate Highway 10, thence along Interstate Highway 10 to junction U.S. Highway 167, thence along U.S. Highway 167 to junction Louisiana Highway 82, thence along Louisiana Highway 82 to junction Louisiana Highway 333, thence along Louisiana Highway 333 to the Gulf of Mexico; to points in that part of Mississippi on and east of a line beginning at the Mississippi-Tennessee State line extending along U.S. Highway 45 to junction Natchez Trace National Parkway, thence along the Natchez Trace National Parkway to junction Interstate Highway 55, thence along Interstate Highway 55 to the Mississippi-Louisiana State line; to points in that part of Tennessee on and east of a line beginning at the Tennessee-Missouri State line extending along Tennessee Highway 79 to junction Tennessee Highway 78, thence along Tennessee Highway 78 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Tennessee Highway 20, thence along Tennessee Highway 20 to junction U.S. Highway 45, thence along U.S. Highway 45 to the Tennessee-Missouri State line; to points in that part of Missouri on and east of a line beginning at the Missouri-Illinois State line extending along Missouri Highway 146 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction Missouri Highway 84, thence along Missouri Highway 84 to the Missouri-Tennessee State line.

To points in that part of Illinois on and east of a line beginning at the Illinois-Wisconsin State line extending

along Illinois Highway 26 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Illinois Highway 127, thence along Illinois Highway 127 to junction Illinois Highway 146, thence along Illinois Highway 146 to the Illinois-Missouri State line; to points in that part of Wisconsin on and northeast of a line beginning at the Wisconsin-Minnesota State line extending along U.S. Highway 14 to junction Wisconsin Highway 69, thence along Wisconsin Highway 69 to the Wisconsin-Illinois State line; to points in that part of Minnesota on and east of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 71 to junction Minnesota Highway 6, thence along Minnesota Highway 6 to junction Minnesota Highway 286, thence along Minnesota Highway 286 to junction Minnesota Highway 38, thence along Minnesota Highway 38 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Minnesota Highway 210, thence along Minnesota Highway 210 to junction Minnesota Highway 371, thence along Minnesota Highway 371 to junction U.S. Highway 10, thence along U.S. Highway 10 to junction U.S. Highway 61, thence along U.S. Highway 61 to the Minnesota-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E793), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts* thereof (except commodities requiring special equipment), between Richardton, N. Dak., on the one hand, and, on the other, points in that part of South Dakota on and east of a line beginning at the Nebraska-South Dakota State line extending along U.S. Highway 81 to junction South Dakota Highway 23, thence along South Dakota Highway 23 to junction South Dakota Highway 15, thence along South Dakota Highway 15 to the North Dakota-South Dakota State line. The purpose of this filing is to eliminate the gateway of Nassau, Minn.

No. MC 114211 (Sub-No. E796), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road-making machinery and contractors' equipment and supplies*, from points in that part of South Dakota on and north of a line beginning at the South Dakota-Minnesota State line extending along U.S. Highway 14 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 16, thence along U.S. Highway 16 to the Wyoming-South Dakota State line, to points in that part of Missouri on and east of a line beginning at the Iowa-Missouri State line extending along U.S. Highway 63 to junction Missouri Highway 17, thence along Missouri Highway 17 to the Arkansas-Missouri State line. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E797), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except in each instance, commodities which because of size or weight requires special equipment and except commodities described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), from points in Illinois, to points in Arizona, New Mexico, to points in that part of Nevada on and southwest of a line beginning at the Nevada-Arizona State line extending along U.S. Highway 91 to junction U.S. Highway 93, thence along U.S. Highway 93 to junction Nevada Highway 25, thence along Nevada Highway 25 to junction U.S. Highway 6, thence along U.S. Highway 6 to the Nevada-California State line and to points in that part of California on and southwest of a line beginning at the California-Nevada State line extending along U.S. Highway 6 to junction California Highway 120, thence along California Highway 120 to junction Interstate Highway 5, thence along Interstate Highway 5 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction California Highway 128, thence along California Highway 128 to junction U.S. Highway 101, thence along U.S. Highway 101 to junction California Highway 116, thence along California Highway 116 to California Highway 1 to Jenner, Calif. The purpose of this filing is to eliminate the gateways of points in Kansas and Claremore, Okla.

No. MC 114211 (Sub-No. E798), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except in each instance, commodities which because of size or weight requires special equipment and except commodities described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), from points in that part of Illinois on and south of a line beginning at the Illinois-Missouri State line extending along U.S. Highway 24 to junction U.S. Highway 136, thence along U.S. Highway 136 to junction Illinois Highway 10, thence along Illinois Highway 10 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Illinois-Indiana State line, to points in that part of Oklahoma on and west of a line beginning at the Oklahoma-Texas State line extending along U.S. Highway 271 to junction Oklahoma Highway 3, thence along Oklahoma Highway 3 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 283, thence along U.S. Highway 283 to the Oklahoma-Kansas State line and to points in that part of California on and south of a line beginning at the California-Nevada State line extending along Interstate Highway 80 to San Francisco, Calif., points in that part of Utah on and south of a line beginning at the Nevada-Utah State line extending along U.S. Highway 50 to junction Utah Highway 26, thence along Utah Highway 26 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 163, thence along U.S. Highway 163 to junction Utah Highway 46, thence along Utah Highway 46 to the Utah-Colorado State line, points in that part of Nevada on and south of a line beginning at the California-Nevada State line extending along Interstate Highway 80 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction U.S. Alternate Highway 95, thence along U.S. Alternate Highway 95 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Nevada-Utah State line. The purpose of this filing is to eliminate the gateways of points in Kansas and Claremore, Okla.

No. MC 114211 (Sub-No. E799), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled tractors, road-making machinery and contractors' equipment and supplies* each weighing 15,000 pounds or more, (2) *tractors, road-making machinery and contractors' equipment and supplies* which because of size or weight require special equipment, between points in that part of Illinois on a line beginning at the Indiana-Illinois State line extending along Interstate Highway 74 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 136, thence along U.S. Highway 136 to the Iowa-Illinois State line, on the one hand, and, on the other, points in that part of Missouri on and north of a line beginning at the Illinois-Missouri State line extending along U.S. Highway 36 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Missouri Highway 19, thence along Missouri Highway 19 to junction Missouri Highway 22, thence along Missouri Highway 22 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Missouri Highway 73, thence along Missouri Highway 73 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Oklahoma-Missouri State line. The purpose of this filing is to eliminate the gateway of points in Iowa.

No. MC 114211 (Sub-No. E800), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment* (except commodities which because of size or weight requires the use of special equipment and except commodities described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), between points in Illinois, on the one hand, and, on the other, points in that part of Texas on and west of a line beginning at the Texas-Oklahoma State line extending along U.S. Highway 75 to junction Interstate Highway 35E, thence along Interstate Highway 35E to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 81, thence along U.S. Highway 81 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 77, thence along U.S. Highway 77 to junction Interstate Highway 37, thence along Interstate Highway 37 to and ending at Corpus Christi, Tex., points in that part of Oklahoma on and west of a line beginning at the Oklahoma-Missouri State line extending along Interstate Highway 44 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Texas State line. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 114211 (Sub-No. E803), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm machinery and parts thereof*, from points in that part of Illinois on and north of a line beginning at the Indiana-Illinois State line extending along U.S. Highway 34 to junction Interstate Highway 74, thence along Interstate Highway 74 to the Indiana-Illinois State line, to points in that part of California on and north of a line beginning at the United States-Mexico Boundary line extending along U.S. Highway 395 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line, to points in that part of Utah on and west of a line beginning at the Idaho-Utah State line extending along U.S. Highway 91, thence along U.S. Highway 91 to junction U.S. Highway 89, thence along U.S. Highway 89 to junction Interstate Highway 215, thence along Interstate Highway 215 to junction Interstate Highway 15, thence along Interstate Highway 15 to the California-Nevada State line extending along Interstate Highway 15 to the Arizona-Nevada State line, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E804), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road making machinery* and *contractor's equipment* and *supplies*, from points in that part of Illinois on and north of a line beginning at the Iowa-Illinois State line extending along U.S. Highway 34 to Interstate Highway 74, thence along Interstate Highway 74 to the Indiana-Illinois State line, to points in that part of Utah on and west of a line beginning at the Idaho-Utah State line extending along U.S. Highway 91 to junction U.S. Highway 89, thence along U.S. Highway 89 to Interstate Highway 215, thence along Interstate 215 to junction Interstate 15, thence along Interstate 15 to the Arizona-Utah State line; points in that part of Nevada on and north of a line beginning at the California-Nevada State line extending along U.S. 91 Interstate 15 to the Nevada-Utah State line; points in that part of California on and north of a line at the United States-Mexico Boundary line extending along U.S. Highway 395 to junction Interstate 15, thence along Interstate Highway 15 to the California-Nevada State line. The purpose of this filing is to eliminate the gateway of Minneapolis, Minnesota.

No. MC 114211 (Sub-No. E805), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery* from points in Iowa, to points in that part of Texas on, west and north of a line beginning at the Oklahoma-Texas State line extending along U.S. Highway 62 to junction U.S. Highway 83, thence along U.S. Highway 83 to junction U.S. Highway 84, thence along U.S. Highway 84 to U.S. 67, thence along U.S. 67 to junction U.S. Highway 183, thence along U.S. Highway 183 to junction U.S. Highway 281, thence along U.S. Highway 281 to junction U.S. Highway 87, thence along U.S. Highway 87 to Port Lavaca, Texas, with no transportation for compensation on return, except as otherwise authorized, restricted against movement to oil field locations. The purpose of this filing is to eliminate the gateway of Beatrice and Nebraska City, Nebraska.

No. MC 114211 (Sub-No. E806), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Contractors' equipment*, between points in Illinois, on the one hand, and, in the other, points in South Dakota, restricted against operations in foreign commerce. The purpose of this filing is to eliminate the gateway of Garner, Iowa.

No. MC 114211 (Sub-No. E807), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of Iowa on and north of a line beginning at the Illinois-Iowa State line extending along U.S. Highway 20 to junction U.S. Highway 71, thence along U.S. Highway 71 to the Minnesota-Iowa State line, to points in Kansas. The purpose of this filing is to eliminate the gateway of Ft. Dodge, Iowa.

No. MC 114211 (Sub-No. E808), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts therefor* (except in each instance, commodities which because of size or weight require the use of special equipment and except commodities described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459), from points in Iowa to points in that part of New Mexico on and west of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 285 to the junction of U.S. Highway 66, thence along U.S. Highway 66 to junction Interstate Highway 40, thence along Interstate Highway 40 to the New Mexico-Arizona State line; to points in that part of Arizona on and south of a line beginning at the New Mexico-Arizona State line, extending along Interstate Highway 40 to the Arizona-California State line; and to points in that part of California on and south of a line beginning at the Arizona-California State line extending along Interstate Highway 40 to the junction of California Highway 58, thence along California Highway 58 to the junction of California Highway 99, thence along California Highway 99 to the junction of California Highway 166, thence along California Highway 166 to Santa Maria, Calif., with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Omaha and Beatrice, Nebr., and Claremore, Okla.

No. MC 114211 (Sub-No. E809), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled grading, paving, and finishing machinery, equipment, parts, accessories, and attachments*, from points in California, to points in that part of Illinois north and east of a line beginning at the Iowa-Illinois State line extending along U.S. Highway 20 to junction Illinois Highway 26, thence along Illinois Highway 26 to junction Illinois Highway 64,

thence along Illinois Highway 64 to junction U.S. Highway 51, thence along U.S. Highway 51 to junction Illinois Highway 18, thence along Illinois Highway 18 to junction Illinois Highway 17, thence along Illinois Highway 17 to the Indiana-Illinois State line, points in that part of Indiana on, north, and east of a line from the Illinois-Indiana State line extending along Indiana Highway 10 to junction Indiana Highway 110, thence along Indiana Highway 110 to junction U.S. Highway 231, thence along U.S. Highway 231 to junction Indiana Highway 14, thence along Indiana Highway 14 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction Indiana Highway 14, thence along Indiana Highway 14 to junction U.S. Highway 31, thence along U.S. Highway 31 to Indiana Highway 114, thence along Indiana Highway 114 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 27/33, thence along U.S. Highway 27/33 to junction U.S. Highway 33, thence along U.S. Highway 33 to the Indiana-Ohio State line, points in that part of Ohio north and east of a line beginning at the Indiana-Ohio State line extending along U.S. Highway 33 to the Ohio-West Virginia State line, points in that part of West Virginia north and east of a line beginning at the Ohio-West Virginia State line, extending along U.S. Highway 33 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction Interstate Highway 64/U.S. Highway 60, thence along Interstate Highway 65/U.S. Highway 60 to the West Virginia-Virginia State line, and to points in Michigan, Wisconsin, the District of Columbia, Maine, Vermont, New Hampshire, and Rhode Island, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of Canton, S. Dak., and Minneapolis, Minn.

No. MC 114211 (Sub-No. E810), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery*, from points in that part of Minnesota on, west, and north of a line beginning at the Minnesota-Iowa State line extending along U.S. Highway 169 to junction U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line to points in Missouri. The purpose of this filing is to eliminate the gateway of Ft. Dodge, Iowa.

No. MC 114211 (Sub-No. E811), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pressure pipe* (other than pipe used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas, and petroleum and their products, and by-products), and fittings and accessories therefor when moving with such pipe, from points in that part of Missouri north of a line beginning at the Kansas-Missouri State line and extending along U.S. Highway 24/40 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Illinois-Missouri State line, to points in Arizona, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Council Bluffs, Iowa.

No. MC 114211 (Sub-No. E812), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from points in that part of Iowa on, north, and east of a line beginning at the Iowa-Illinois State line extending along U.S. Highway 34 to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction U.S. Highway 218, thence along U.S. Highway 218 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Interstate Highway 35, thence along Interstate Highway 35 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 169, thence along U.S. Highway 169 to junction Iowa Highway 9, thence along Iowa Highway 9 to junction Iowa Highway 4, thence Iowa Highway 4 to the Minnesota-Iowa State line, to points in that part of Colorado on and northwest of a line beginning at the Wyoming-Colorado State line extending along Colorado Highway 13 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Interstate Highway 25, thence along Interstate Highway 25 to the Colorado-New Mexico State line. The purpose of this filing is to eliminate the gateways of Fort Dodge, Iowa, and Beatrice, Nebr.

No. MC 114211 (Sub-No. E813), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors* (except those with vehicle beds, bed frames, and fifth wheels), (2) *equipment* designed for use in conjunction with tractors, (3) *attachments* for the above-described commodities, and (4) *parts* of the commodities in (1) through (3) above, in mixed loads with such commodities, from points in that part of Minnesota on and south of a line beginning at the United States-Canada International Boundary line, to points in Washington, Oregon, Idaho, to points in that part of California on and north of a line beginning at the Nevada-California State line extending along Interstate Highway 40 to junction Interstate Highway 15, thence along Interstate Highway 15 to the Pacific Ocean, to points in that part of Nevada on and north of a line beginning at the Utah-Nevada State line extending along New Mexico Highway 30 to junction U.S. Highway 40, thence along U.S. Highway 40 to west junction Nevada Highway 21, thence along Nevada 21 south to junction Nevada Highway 91, thence along Nevada Highway 91 west to junction New Mexico Highway 23, thence along New Mexico Highway 23 to junction U.S. Highway 95, thence along U.S. Highway 95 to junction Nevada Highway 31, thence along Nevada Highway 31 to the California-Nevada State line; to points in that part of Montana on and north of a line beginning at the Montana-North Dakota State line extending along U.S. Highway 12 to junction Interstate Highway 94, thence along Interstate Highway 94 west to junction Interstate Highway 90, thence along Interstate Highway 90 to junction U.S. Highway 89, thence along U.S. Highway 80 to the Washington-Montana State line, with no transportation of compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateways of that part of the Fargo, N. Dak., commercial zone located in Moorhead, Minn.

No. MC 114211 (Sub-No. E814), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural machinery and implements*, other than hand and parts thereof when transported with such agricultural machinery and implements as described in Sections B and C of Appendix XII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (except those requiring the use of special equipment), from Corpus Christi, Tex., to points in Michigan, with no transportation for compensation on return except as otherwise authorized restricted against movement to oil field locations and further restricted against the transportation of commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling. The purpose of this filing is to eliminate the gateway of Plymouth and Beatrice, Nebr.

No. MC 114211 (Sub-No. E815), filed June 4, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Agricultural machinery, agricultural implements and parts, the transportation of which, because of size or weight, requires special equipment, from points in that part of Missouri on and west of a line beginning at the Iowa-Missouri State line extending along Missouri Highway 5 to

junction U.S. Highway 36, thence along U.S. Highway 36 to junction Missouri Highway 11, thence along Missouri Highway 11 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 41, thence along Missouri Highway 41 to junction U.S. Highway 65, thence along U.S. Highway 65 to the Arkansas-Missouri State line; to points in that part of Wisconsin on and north of a line beginning at the Wisconsin-Minnesota State line extending along U.S. Highway 63 to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Wisconsin Highway 29, thence along Wisconsin Highway 29 to junction Wisconsin Highway 52, thence along Wisconsin Highway 52 to junction U.S. Highway 45, thence along U.S. Highway 45 to junction U.S. Highway 8, thence along U.S. Highway 8 to junction Wisconsin Highway 101, thence along Wisconsin Highway 101 to junction Wisconsin Highway 70, thence along Wisconsin Highway 70 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Michigan-Wisconsin State line. The purpose of this filing is to eliminate the gateway of Fort Dodge, Iowa.

No. MC 114211 (Sub-No. E1017), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled rollers*, from Mitchell, S. Dak., to points in Connecticut and Massachusetts. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E1034), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 204, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment*, between Madison, S. Dak., on the one hand, and, on the other, points in Texas and Oklahoma. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 114211 (Sub-No. E1038), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 204, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment*, from Thief River Falls, Minn., to points in Texas and Oklahoma. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 114211 (Sub-No. E1039), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from Armstrong, Iowa, to points in Texas. The purpose of this filing is to eliminate the gateway of Beatrice and Nebraska City, Nebr.

No. MC 114211 (Sub-No. E1040), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm machinery and parts thereof*, from Thief River Falls, Minn., to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corp., located at or near Minneapolis, Minn.

No. MC 114211 (Sub-No. E1042), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hod buggies and self-propelled sweepers*, from Thief River Falls, Minn., to points in New York, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E1047), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, from Thief River Falls, Minn., to points in Colorado, Kansas, and Oklahoma. The purpose of this filing is to eliminate the gateway of points in Iowa, Beatrice & Nebraska City, Nebr.

No. MC 114211 (Sub-No. E1057), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Appplicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment*, from Green Isle, Minn., to points in Texas and Oklahoma. The purpose of this filing is to eliminate the gateway of Topeka, Kans.

No. MC 114211 (Sub-No. E1062), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road-making machinery and contractors' equipment and supplies*, from Barnesville, Minn., to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation at Minneapolis, Minn.

No. MC 114211 (Sub-No. E1063), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled rollers* from Barnesville, Minn., to points in Massachusetts and Connecticut. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E1064), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hod buggies and self-propelled sweepers*, from Barnesville, Minn., to points in New York, Massachusetts, Connecticut, New Jersey, Pennsylvania, Maryland, Delaware and Virginia. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC 114211 (Sub-No. E1085), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled rollers* from Madison, South Dakota to points in Connecticut and Massachusetts. The purpose of this filing is to eliminate the gateway of Minneapolis, Minnesota.

No. MC 114211 (Sub-No. E1086), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm machinery* and *parts* thereof, except commodities the transportation of which because of size or weight requires the use of special equipment, from Madison, South Dakota to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation located at or near Minneapolis, Minnesota and Nassau, Minnesota.

No. MC 114211 (Sub-No. E1087), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm machinery* and *parts* thereof, except commodities the transportation of which because of size or weight requires the use of special equipment, from Mitchell, South Dakota to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation located at or near Minneapolis, Minnesota and Nassau, Minnesota.

No. MC 114211 (Sub-No. E1091), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery* between Great Bend, Kansas on the one hand, and, on the other points in Iowa. The purpose of this filing is to eliminate the gateway of Beatrice and Nebraska City, Nebraska.

No. MC 114211 (Sub-No. E1092), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hod buggies* and *self-propelled sweepers* from Madison, South Dakota to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, and Virginia. The purpose of this filing is to eliminate the gateway of Minneapolis, Minnesota.

No. MC 114211 (Sub-No. E1097), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grading, paving*, and *finishing machinery, equipment, parts, accessories*, and *attachments*, between Streator, Illinois on the one hand, and, on the other, points in Wyoming restricted against the transportation of commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling and restricted against the transportation of those commodities described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459. The purpose of this filing is to eliminate the gateway of Canton, South Dakota.

No. MC 114211 (Sub-No. E1114), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, between Canton, Ill., on the one hand, and, on the other, points in Nebraska and South Dakota, restricted against the transportation of commodities the transportation of which, because of size or weight, requires the use of special equipment or special handling, and restricted against the transportation of those commodities described in *Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459. The purpose of this filing is to eliminate the gateways of Council Bluffs, Iowa, and Omaha, Nebr.

No. MC 114211 (Sub-No. E1122), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery*, between Enid, Okla., on the one hand, and, on the other, points in Iowa. The purpose of this filing is to eliminate the gateways of Beatrice and Nebraska City, Nebr.

No. MC 114211 (Sub-No. E1126), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled tractors, road making machinery, and contractors' equipment and supplies*, from Pueblo, Colo., to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation located at or near Minneapolis, Minn.

No. MC 114211 (Sub-No. E1152), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road building equipment*, between Enid, Okla., on the one hand, and, on the other, points in Illinois, Iowa, Minnesota, South Dakota, Nebraska, and Colorado. The purpose of this filing is to eliminate the gateway of points in Kansas.

No. MC 114211 (Sub-No. E1068), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and parts thereof*, except commodities the transportation of which because of size or weight, requires the use of special equipment or special handling, from Barnesville, Minn., to points in Nebraska and Wyoming. The purpose of this filing is to eliminate the gateways of Nassau, Minn., and points in South Dakota.

No. MC 114211 (Sub-No. E1074), filed July 3, 1974. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Kenneth R. Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled farm machinery and parts thereof*, from Green Island, Minn., to points in New York. The purpose of this filing is to eliminate the gateway of the plant site of the Stinar Corporation located at or near Minneapolis, Minn.

No. MC 117344 (Sub-No. E37), filed May 22, 1974. Applicant: THE MAXWELL CO., 10380 Evensdale Drive, Cincinnati, Ohio 45215. Applicant's representative: James R. Stiverson, 50 W. Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lacquers, paints, resins, stains, varnishes, and plastics*, in bulk, in tank vehicles, from Dayton, Ohio, to points in Alabama, Arkansas; those in Georgia on and south of a line beginning at Columbus, Georgia, and extending east along U.S. Highway 280 to its junction with Georgia Highway 26, thence east along Georgia Highway 26 to Perry, Ga., thence southeast along U.S. Highway 341 to Brunswick, Illinois on and south of U.S. Highway 460 (except points in the St. Louis, Mo.-St. Louis., Ill., commercial zone as defined by the Commission), Kansas, Louisiana, Mississippi, Oklahoma, those in Tennessee on and west of a line beginning at the Tennessee-Kentucky State line and extending south along U.S. Highway 431 to its junction with U.S. Highway 41, thence southeast along U.S. Highway 41 to junction Tennessee Highway 56, thence south along Tennessee Highway 56 to the Tennessee-Alabama State line, and Texas, restricted against the transportation of dry chemicals to points in Ohio, and points in Chambers, Montgomery, Harris, Fort Bend, Galveston, Liberty, and Brazoria Counties, Tex. The purpose of this filing is to eliminate the gateway of the facilities of the Polymers & Chemical Division of W. R. Grace & Co., at Owensboro, Ky.

No. MC 117344 (Sub-No. E39), filed May 22, 1974. Applicant: THE MAXWELL CO., 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: James R. Stiverson, 50 W. Broad St., Cincinnati, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oil*, in bulk, in tank vehicles, from Jacksonville, Ill., to points in Connecticut, Massachusetts, and Rhode Island. The purpose of this filing is to eliminate the gateways of Cincinnati and Columbus, Ohio.

No. MC 116915 (Sub-No. E6), filed June 3, 1974. Applicant: ECK MILLER TRANSPORTATION CORPORATION, 1125 Sweeney Street, Owensboro, Ky. 42301. Applicant's representative: William P. Sullivan, 1819 H. Street, N.W., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil well and mine machinery, pipe and supplies made of aluminum, and equipment, materials and supplies* (except in bulk), used in the manufacture and processing of the foregoing commodities (1) between points in Illinois on and south of U.S. Highway 50, points in Indiana on and south of U.S. Highway 150, points in Kentucky on and west of Interstate Highway 65 and points in Tennessee on and west of U.S. Highway 231 and on and east of Tennessee Highway 22, on the one hand, and, on the other, points in Connecticut, New York, New Jersey and Pennsylvania, (2) between points in Illinois on and south of U.S. Highway 50, on the one hand, and, on the other, points in North Carolina and South Carolina, (3) between points in Indiana on and south of Indiana Highway 26, on the one hand,

and, on the other, points in Florida, and (4) between points in Indiana on and south of Indiana Highway 18, on the one hand, and, on the other, points in Texas. The purpose of this filing is to eliminate the gateway of Hawesville, Ky.

No. MC 117344 (Sub-No. E35) filed June 2, 1974. Applicant: MAXWELL COMPANY, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: Thomas L. Maxwell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Vegetables oils* in bulk, in tank vehicles, (a) from points in Illinois (except Chicago, Decatur and Bloomington); and Kentucky (except Louisville) to points in Connecticut, Massachusetts and Rhode Island (b) from Indiana (except Indianapolis) to points in Connecticut and Rhode Island, and (2) *soybean oil* from Chicago, Decatur and Bloomington, Illinois, and Louisville, Kentucky to points in Connecticut, Massachusetts and Rhode Island. The purpose of this filing is to eliminate the gateways of Cincinnati and Columbus, Ohio.

By the Commission.

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

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PART II

ENVIRONMENTAL PROTECTION AGENCY

■

PRINTING INK AND PAINT FORMULATING POINT SOURCE CATEGORIES

Effluent Guidelines and Standards

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 446]

[FRL 335-8]

EFFLUENT LIMITATIONS AND GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES

Paint Formulating Point Source Category

Notice is hereby given that effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA). The regulation proposed below will cover the oil-base paint subcategory (Subpart A) and the water-base paint subcategory (Subpart B) of the paint formulating point source category pursuant to sections 301, 304 (b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317 (c); 86 Stat. 816 et seq.; Pub. L. 92-500 (the Act).

(a) Legal authority. (1) Existing point sources. Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301 (b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) of the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives. The regulation proposed herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the oil-base paint subcategory (Subpart A) and the water-base paint subcategory (Subpart B) of the paint formulating point source category.

(2) New sources. Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b)(1)(A) of the Act. The regulations proposed herein set forth the standards of performance applicable to new sources for the oil-base paint subcategory (Subpart A) and the water-base paint subcategory (Subpart B) of the paint formulating point source category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. Sections 446.16 and 446.26, proposed below, provide pretreatment standards for new sources within the oil-base paint subcategory (Subpart A), and the water-base paint subcategory (Subpart B) of the paint formulating point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or "Development Document" referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(b) Summary and basis of proposed effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources.

(1) General methodology.

The effluent limitations, guidelines and standards of performance proposed herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations and standards are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations and standards for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations and standards of performance were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which are existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available," "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

The pretreatment standards proposed herein are intended to be complementary to the pretreatment standards proposed for existing sources under 40 CFR 128. The basis for such standards is set forth in the FEDERAL REGISTER of July 19, 1973, 38 FR 19236. The provisions of Part 128 are equally applicable to sources which would constitute "new sources," under section 306 if they were to discharge pollutants directly to navigable waters, except for § 128.133. That section provides a pretreatment standard for "incompatible pollutants" which requires application of the "best practicable control technology currently available," subject to an adjustment for amounts of pollutants removed by the publicly owned treatment works. Since the pretreatment standards proposed herein apply to new sources, §§ 446.16 and 446.26 below amend § 128.133 to specify the application of the standard of performance for new sources rather than the "best practicable" standard applicable to existing sources under sections 301 and 304(b) of the Act.

(2) Summary of conclusions with respect to the oil-base paint subcategory (Subpart A), and the water-base paint

subcategory (Subpart B), of the paint formulating point source category.

(i) Categorization. For the purpose of studying waste treatment and effluent limitations, the paint formulating category was divided into two discrete subcategories, primarily based upon the differences in the waste water treatability as described in the Development Document for the paint and printing ink point source categories. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

The industry produces paints, varnishes and lacquers, which consist of film-forming binders (resins or drying oils) dissolved in volatile solvents or dispersed in water. In addition, all paint and most lacquers contain pigments and extenders (calcium carbonate, clays and silicates). The industry also produces such products as putty, caulking compounds, sealants, paint and varnish removers, and thinners. The paint formulating category was broken into two subcategories, oil-base and water-base paints. Subpart A, oil-base paints, includes all of the above items that use oil as the major carrier vehicle. Subpart B, water-base paints, includes all of the above items that use water as the major carrier vehicle.

(ii) Waste characteristics. The significant pollutant parameters in waste waters resulting from the paint formulating category include five-day biochemical oxygen demand (BOD5), total suspended solids (TSS), pH, and selected metals. There are possibly other pollutants to be found in paint wastes but as they are intermittent each plant should be treated on a case-by-case basis.

Effluent limitations guidelines and standards of performance are established below to control each of the above pollutants.

(iii) Origin of waste water pollutants. The origin of waste water pollutants in the paint formulating category is principally from cleanup of mixing and milling equipment. Minor sources are from cleanup of product and raw material spills, and from leaking product transfer equipment in both oil- and water-base paint production.

(iv) Treatment and control technology. Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is (a) the best practicable control technology currently available, (b) the best available technology economically achievable, and (c) the best available demonstrated control technology, processes, operating methods or other alternatives.

Oil-base paints—Best practicable control technology currently available for the oil-base paint subcategory is no discharge of waste water pollutants to navigable waters. The most commonly employed system to achieve this standard includes redistillation and reuse of solvents, improved maintenance to prevent product leaks, utilization of dry or minimum water use floor cleanup procedures and closed loop tub washing systems with excess solids being landfilled.

Water-base paints—Best practicable control technology currently available for the water-base paint subcategory is no discharge of waste water pollutants to navigable waters. The most commonly employed treatment systems to achieve these standards are the use of closed loop washing machines with sludge sent to a landfill, improved maintenance to prevent product leaks and the utilization of dry or minimum water use floor cleanup procedures. Some small plants may conserve wash water and drum the entire flow for subsequent disposal by a scavenger company. At least one small paint manufacturer has programmed production methods to use all wash water in subsequent product batches.

Solid waste control must be considered. Solid residue and sludge are potential problems because of the need for periodic disposal. Solid waste must be handled properly to assure that no landfill or associated problems develop. Best practicable control technology and best available control technology, as they are known today, require disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In most cases these are non-hazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to ensure long term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate precautions (e.g. impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

(v) Cost estimates for control of waste water pollutants.

It is estimated that the treatment technology required to achieve no discharge of waste water pollutants would increase paint costs in a range from $0.006 to $0.017 per gallon depending on the methods used to meet the requirements and the size of the producing unit.

(vi) Energy requirements and non-water quality environmental impacts.

There should be no significant impact caused by these discharge limitations on energy requirements, noise, air pollution or radiation pollution. There would be an increased need to dispose of waste sludge in landfills.

(vii) Economic impact analysis.

The proposed guidelines are expected to have a significant impact on certain segments of the paint industry. As many as 88 plant closures are possible in 1977 as a result of the guidelines, primarily in the very small plant categories (less than 333,000 gal/yr of final product). These closures would represent 44 percent of the estimated 199 plants which are currently discharging directly to surface water, or 5.4 percent of all plants in the industry. The threatened plants account for 10.6 percent of production from all existing direct discharge plants or 1.7 percent of total industry production. Approximately 2400 employees would be affected by closure, but it is not expected that they would be regionally concentrated and most closures would occur in large cities where they would have little effect on the city economic base.

The predicted closures would be concentrated among plants which produce primarily industrial finishes, with a lesser number occurring in trade sales and none expected in allied products.

Possible closures as a direct result of effluent control costs will occur in the paint industry as a result of the required new investment which is a high (up to 44%) percentage of current fixed investment, and annual costs which are a substantial (up to 1.5%) percentage of sales (in the case of very small plants exceeding profit before taxes as a percent of sales). Both factors combine to reduce profitability on the threatened plants such as to cast serious doubts on their access to capital markets; and in the case of some very small plants, the increase in annual costs will be greater than their current profit before taxes.

The threatened plants are neither sufficiently large nor numerous to be able to pass forward their increased costs in a highly price-competitive market. Therefore, no general price increases are expected in the paint industry as a result of the proposed guidelines.

Considerable data discrepancy exists between the cost study performed by the EPA National Field Investigation Center (Denver) and the economic analysis performed by Arthur D. Little, Inc., particularly on the subject of the existing number of directly discharging paint and ink plants. The ADL data, derived from recent trade association surveys, indicate the existence of 199 plants and 46 ink plants which are currently directly discharging their process effluent to surface waters. The NFIC data, drawn from EPA permit program data, show only 27 paint plants and 8 ink plants as direct dischargers. Plant closures predicted herein are based on the ADL data, though efforts are continuing to resolve this discrepancy.

New source performance standards and new source pretreatment standards are not expected to deter or otherwise influence industry growth other than possibly to further an existing industry trend toward a declining number of very small plants. No other secondary effects are expected.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Paint and Printing Ink Formulating Point Source Categories"

details the analysis undertaken in support of the regulation being proposed herein and will be made available for inspection in the EPA Information Center, Room 204, West Tower, Waterside Mall, Washington, D.C., at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulation is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulation, or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports will be made available. Persons wishing to obtain a copy may write the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A–107.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public (38 FR 15653). The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which prescribe national standards of environmental quality or require national emission, effluent or performance standards and limitations.

The Agency determined to implement these procedures in order to insure that the public was apprised of the environmental effects of its major standards setting actions and was provided with detailed background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where, because of the length of these materials, such publication is impracticable, the material may be made available in an alternate format.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Paint and Printing Ink Formulating Point Source Categories" contains information available to the Agency concerning the major environmental effects of the regulation proposed below, including:

(1) The pollutants presently discharged into the Nation's waterways by manufacturers of paint and the degree of pollution reduction obtainable from implementation of the proposed guidelines and standards (see particularly sections IV, V, VI, IX, X, and XI);

(2) The anticipated effects of the proposed regulation on other aspects of the environment including air, solid waste disposal and land use, and noise (see particularly section VIII); and

(3) Options available to the Agency in developing the proposed regulatory system and the reasons for its selecting the particular levels of effluent reduction which are proposed (see particularly sections VI, VII, and VIII).

The supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines for the Paint and Allied Products and the Printing Ink Industries" contains an estimate of the cost of pollution control requirements and an analysis of the possible effects of the proposed regulation on prices, production levels, employment, communities in which paint manufacturing plants are located, and international trade. In addition, the Development Document describes, in section VIII, the cost and energy consumption implications of the proposed regulations.

The two reports described above in the aggregate exceed 100 pages in length and contain a substantial number of charts, diagrams, and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in foregoing portions of this preamble. Additional discussion is contained in the following analysis of comments received and the Agency's response to them. As has been indicated, both documents will be made available for inspection at the Agency's Washington, D.C. and regional offices and at State water pollution control agency offices. Copies of each have been distributed to persons and institutions affected by the proposed regulations or who have placed themselves on a mailing list for this purpose. Finally, so long as the supply remains available, additional copies may be obtained from the Agency as described above.

When this regulation is promulgated, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the Economic Analysis will be available through the National Technical Information Service, Springfield, Virginia 22151.

(c) Summary of public participation. Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of effluent limitations, guidelines and standards proposed for the paint formulating category. All participating agencies have been informed of project developments. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. The following are the principal agencies and groups consulted: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and U.S. Territory Pollution Control Agencies; (3) National Paint and Coatings Association; (4) U.S. Department of the Treasury; (5) Government of Guam and Government of Samoa Trust Territories of the Pacific Islands; (6) Puerto Rico; (7) The Conservation Foundation; (8) American Society of Mechanical Engineers; (9) Hudson River Sloop Restoration, Inc.; (10) Conservation Foundation; (11) Businessmen for the Public Interest; (12) Environmental Defense Fund, Inc.; (13) Natural Resources Defense Council; (14) American Society of Civil Engineers; (15) National Wildlife Federation; (16) Water Pollution Control Federation; (17) Ohio River Valley Sanitation Commission; (18) New England Interstate Water Pollution Control Commission; (19) Delaware River Basin Commission; (20) U.S. Department of Health, Education, and Welfare; (21) U.S. Department of Commerce; (22) U.S. Department of Agriculture; (23) Water Resources Council; (24) U.S. Department of the Interior; (25) Federation of Societies for Paint Technology; (26) East Bay Municipal Utilities District; (27) Midland Division —Dexter Corporation; (28) Celanese Coatings Company; (29) Reliance Universal; (30) Benjamin Moore & Company; (31) Sherwin Williams Company; (32) E. I. Dupont De Nemours; (33) PPG Industries; (34) DeSoto, Inc.; (35) Kohler McLister Paint Company; (36) Porter Paints Company; (37) Morwear Paint Company; (38) Wellco Chemical Company and (39) Permutit Corporation.

The following responded with comments: New York State Department of Environmental Conservation; Delaware River Basin Commission; Benjamin Moore and Company; Glidden Durkee Company; Minnesota Pollution Control Agency; Colorado Department of Health; U.S. Water Resources Council; Westvaco; National Paint and Coatings Association; Federation of Societies for Paint Technology; Sherwin-Williams Company; U.S. Department of Agriculture; Reliance Universal Inc.; Delaware Department of Natural Resources; E. I. du Pont de Nemours & Company; North Carolina Department of Natural and Economic Resources and the California State Water Resources Board.

The primary issues raised in the development of the proposed effluent limitations guidelines and standards of performance and the treatment of these issues herein are as follows:

(1) A commenter stated that the requirement of no discharge of waste water pollutants to navigable waters was beyond the authority of the law at this time.

The requirement does not go beyond the intent of the law as, in the surveys made by the EPA, at least 44 plants of varying sizes and ages were found that did not discharge process waste waters. These plants included manufacturers of both oil-base and water-base paints. There is at least one commercial washing system on the market that discharges only sludge from the system. There were other cases of modified systems and total wash water reuse systems that discharge no process waste waters.

As there was sufficient demonstration that the technology to control process waste waters was available and in use, there was no choice but to pick no discharge of process waste waters to surface waters. This was determined to meet the statutory criteria for the best practicable control technology currently available.

(2) Others commented that the economic impact would be so great that many small paint plants would be forced out of business.

The information available to the Agency indicates that in the paint formulating industry, a very small number of direct dischargers have applied for NPDES permits, which indicates a minimal economic impact. However, the Agency's economic contractor has indicated that there are a large number of direct dischargers and that the economic impact to the smaller producers would be severe. These results are contradictory and need to be clarified. The Agency solicits information from the industry concerning number of direct dischargers and economic impact so that the guidelines might be properly adjusted to account for any adverse economic impacts.

(3) Of major concern to several commenters was the problem of disposal of the large quantities of sludge to landfills as many local agencies are severely restricting what can be placed in landfills.

As the requirements for air and water pollution control are increased, the residual solids will increase. Where possible, these residuals should be recycled or reclaimed. Incineration and secure landfills are considered environmentally adequate for disposal of these types of wastes. Ink and paint manufacturers concerned with adequate land disposal may have to seek out or cause the creation of adequate, secure disposal sites.

(4) Several comments were received which claimed the "no discharge" limitations would restrict their option to leave a municipal system and discharge to a water course. The reasoning was that the municipal systems were increasing their discharge fees and becoming unduly restrictive in what they would accept.

The comment that this degree of control removed the option to leave a municipal system and discharge to a navigable water course is not considered valid since methods for achieving "no discharge" have been demonstrated.

(5) There were a considerable number of comments where the reviewer completely agreed with the guidelines.

(6) Several commenters expressed the fear that setting a limitation of "no discharge" to surface waters would encourage municipalities to forbid discharge of paint wastes to publicly owned plants.

The setting of a limitation of no discharge of paint wastes to surface waters is not meant to encourage municipalities to prohibit paint manufacturers from discharging their wastes to publicly owned plants. With proper pretreatment, as described in the Development Document, paint wastes are compatible with municipal treatment system and will not cause the municipality to exceed its permit conditions.

(7) Several commenters stated that a zero discharge limit would be technologically difficult to meet as the recycle cleaning systems described in the development document would require occasional discharges due to buildup of salts and rinse waters in the cleaning solution which would make the cleaning solution unusable.

The Agency's current data base does not support an occasional cleaning solution discharge. The Agency solicits information from the industry concerning the need for this discharge, the volumes involved, its raw waste constituents, and the quality of the discharge after treatment.

(8) Questions have been raised concerning the availability of standards or guidelines applicable to the disposal of solid wastes resulting from the operation of pollution control systems.

The principles set forth in "Land Disposal of Solid Wastes Guidelines" (40 CFR 241) may be used as guidance for acceptable land disposal techniques. Potentially hazardous wastes may require special considerations to ensure their proper disposal. Additionally, state and local guidelines and regulations should be considered wherever applicable.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A-107. Comments on all aspects of the proposed regulation are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing an effluent limitations guideline or standard of performance, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304(b), 306 and 307 of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 204, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. A copy of preliminary draft contractor reports, the Development Document and economic study referred to above, and certain supplementary materials supporting the study of the industry concerned will also be maintained at this location for public review and copying. The EPA information regulation, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

All comments received by March 28, 1975 will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Dated: February 12, 1975.

JOHN QUARLES,
Acting Administrator.

PART 446—PAINT FORMULATION POINT SOURCE CATEGORY

Subpart A—Oil-Base Paint Subcategory

Sec.
446.10 Applicability; description of the oil-base paint subcategory.
446.11 Specialized definitions.
446.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
446.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
446.14 [Reserved.]
446.15 Standards of performance for new sources.
446.16 Pretreatment standards for new sources.

Subpart B—Water-Base Paint Subcategory

446.20 Applicability; description of the water-base paint subcategory.
446.21 Specialized definitions.
446.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
446.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
446.24 [Reserved.]
446.25 Standards of performance for new sources.
446.26 Pretreatment standards for new sources.

Subpart A—Oil-Base Paint Subcategory

§ 446.10 Applicability; description of the oil-base paint subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of oil-base paint. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

§ 446.11 Specialized definitions.

For the purpose of this subpart:

Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 446.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such

as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.14 [Reserved]

§ 446.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the oil-base paint subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 446.15; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

Subpart B—Water-Base Paint Subcategory

§ 446.20 Applicability; description of the water-base paint subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of water-base paint: When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

§ 446.21 Specialized definitions.

For the purpose of this subpart:

Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 446.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.24 [Reserved]

§ 446.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 446.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the water-base paint subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of perform-

ance for new sources specified in 40 CFR 446.25; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants be correspondingly reduced in stringency for that pollutant."

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[40 CFR Part 447]

[FRL 336-1]

EFFLUENT LIMITATIONS AND GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES

Printing Ink Formulating Point Source Category

Notice is hereby given that effluent limitations and guidelines for existing sources and standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA). The regulation proposed below will cover the oil-base ink subcategory (Subpart A) and the water-base ink subcategory (Subpart B) pursuant to sections 301, 304 (b) and (c), 306 (b) and 307(c) of the Federal Water Pollution Control Act as amended 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500 (the Act).

(a) Legal authority. (1) Existing point sources. Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) to the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives. The regulation proposed herein sets forth effluent limitations and guidelines, pursuant to sections 301 and 304(b) of the Act, for the oil-base ink subcategory (Subpart A) and the water-base ink subcategory (Subpart B) of the printing ink formulating point source category.

(2) New sources. Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b)(1)(A) of the Act. The regulations proposed herein set forth the standards of performance applicable to new sources for the oil-base ink subcategory (Subpart A) and the water-base ink subcategory (Subpart B) of the printing ink formulating point source category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. Sections 447.16, and 447.26, proposed below, provide pretreatment standards for new sources within the oil-base ink subcategory (Subpart A), and the water-base ink subcategory (Subpart B), of the printing ink formulating point source category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or "Development Document" referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(b) Summary and basis of proposed effluent limitations guidelines for existing source and standards of performance and pretreatment standards for new sources.

(1) General methodology.

The effluent limitations, guidelines and standards of performance proposed herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations and standards are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations and standards for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of the source, flow and volume of water used in the process employed, the sources of waste and waste waters in the operation and the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations and standards of performance were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which are existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available," "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

The pretreatment standards proposed herein are intended to be complementary to the pretreatment standards proposed for existing sources under 40 CFR 128. The basis for such standards is set forth in the FEDERAL REGISTER of July 19, 1973, 38 FR 19236. The provisions of Part 128 are equally applicable to sources which would constitute "new sources," under section 306 if they were to discharge pollutants directly to navigable waters, except for § 128.133. That section provides a pretreatment standard for "incompatible pollutants" which requires application of the "best practicable control technology currently available," subject to an adjustment for amounts of pollutants removed by the publicly owned treatment works. Since the pretreatment standards proposed

herein apply to new sources, §§ 447.16, and 447.26 below amend § 128.133 to specify the application of the standard of performance for new sources rather than the "best practicable" standard applicable to existing sources under sections 301 and 304(b) of the Act.

(2) Summary of conclusions with respect to the oil-base ink subcategory (Subpart A), and the water-base ink subcategory (Subpart B), of the printing ink formulating point source category.

(i) Categorization. For the purpose of studying waste treatment and effluent limitations, the printing ink formulating category was divided into two discrete subcategories, primarily based upon the differences in the waste water treatability as described in the Development Document for the Paint and Printing Ink point source categories. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered by each subcategory.

This category covers plants that formulate either oil or water-base printing inks. The major components include drying oils, resins, varnish, pigments and many specialty additives. The ink formulating category was broken into two subcategories, oil-base and water-base inks. Subpart A, oil-base inks, use oil or solvent as the major carrier vehicle while Subpart B, water-base inks, use water as the major carrier vehicle.

(ii) Waste characteristics. The significant pollutant parameters in waste waters resulting from the ink formulating category include five-day biochemical oxygen demand (BOD5), total suspended solids (TSS), pH, and selected metals. There are possibly other pollutants to be found in ink wastes at intermittent periods and these should be treated on a case-by-case basis.

Effluent limitations guidelines and standards of performance are established below to control each of the above parameters.

(iii) Origin of waste water pollutants. The origin of waste water pollutants in the ink formulating category is principally from the cleanup of mixing and milling equipment. Minor sources are from cleanup of product and raw material spills, and from leaking product transfer equipment in both oil and water-base ink production.

(iv) Treatment and control technology. Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is (a) the best practicable control technology currently available, (b) the best available technology economically achievable, and (c) the best available demonstrated control technology, processes, operating methods or other alternatives.

Oil base inks—Best practicable control technology currently available for the oil-base ink subcategory is no discharge of waste water pollutants to navigable waters. The most commonly employed system to achieve this standard includes redistillation and reuse of solvents, improved maintenance to prevent product leaks, utilization of dry or minimum water use floor cleanup procedures and closed loop tub washing systems with excess solids being landfilled.

Water-base inks—Best practicable control technology currently available for the water-base ink subcategory is no discharge of waste water pollutants to navigable waters. The most commonly employed treatment systems to achieve these standards are the use of closed loop washing machines with sludge sent to a landfill, improved maintenance to prevent product leaks and the utilization of dry or minimum water use floor cleanup procedures. Some small plants may conserve wash water and drum the entire flow for subsequent disposal by a scavenger company.

Solid waste control must be considered. Solid residue and sludge are potential problems because of the need for periodic disposal. Solid waste must be handled properly to assure that no landfill or associated problems develop. Best practicable control technology, and best available control technology as they are known today, require disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In most cases these are non-hazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to ensure long term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate precautions (e.g. impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

(v) Cost estimates for control of waste water pollutants. It is estimated that this control technology will increase the cost of printing ink in a range of from $0.001 to 0.003 per pound depending on the method used to meet the requirements and the size of the producing unit.

(vi) Energy requirements and non-water quality environmental impacts. There should be no significant impact caused by these discharge limitations on energy requirements on noise, air pollution or radiation pollution. There would be an increase in the need to dispose of waste sludge in landfills.

(vii) Economic impact analysis. The proposed guidelines are not expected to have any significant impact on the printing ink industry. Assuming that increased costs for effluent control are completely absorbed out of cash flow, return on investment for affected plants should remain in an acceptable range (7.5–8.8 percent) and no plant closures or production cutbacks are anticipated.

Moreover, the printing ink industry has the added security that demand for printing ink is relatively inelastic, since ink is a raw material for the printing industry and rarely represents a significant portion of the cost of the finished printed product. Therefore, increased costs could be passed forward if the ink industry chose to do so; and a price increase of only 0.6 percent would cover the increased costs for 41 of the 46 plants which are expected to incur increased costs. However, historically the printing ink industry has shown a resistance to passing forward such cost increases and it is expected that no general price increases will occur.

No adverse impacts are expected on production, employment, international trade or industry growth as a result of the proposed guidelines.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Paint and Printing Ink Formulating Point Source Categories" details the analysis undertaken in support of the regulation being proposed herein and will be made available for inspection in the EPA Information Center, Room 204, West Tower, Waterside Mall, Washington, D.C., at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulation will be made available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulation, or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Ms. Ruth Brown, A–107.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public (38 FR 15653). The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which prescribe national standards of environmental quality or require national emission, effluent or performance standards and limitations.

The Agency determined to implement these procedures in order to insure that the public was apprised of the environmental effects of its major standards setting actions and was provided with detailed background information to assist it in commenting on the merits of a proposed action. In brief, the proce-

dures call for the Agency to make public the information available to it delineating the major nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where, because of the length of these materials, such publication is impracticable, the material may be made available in an alternate format.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Paint and Printing Ink Formulating Point Source Categories" contains information available to the Agency concerning the major environmental effects of the regulation proposed below, including:

(1) The pollutants presently discharged into the Nation's waterways by manufacturers of ink and the degree of pollution reduction obtainable from implementation of the proposed guidelines and standards (see particularly sections IV, V, VI, IX, X, and XI);

(2) The anticipated effects of the proposed regulation on other aspects of the environment including air, solid waste disposal and land use, and noise (see particularly section VIII); and

(3) Options available to the Agency in developing the proposed regulatory system and the reasons for its selecting the particular levels of effluent reduction which are proposed (see particularly sections VI, VII, and VIII).

The supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines for the Paint and Allied Products and the Printing Ink Industries" contains an estimate of the cost of pollution control requirements and an analysis of the possible effects of the proposed regulation on prices, production levels, employment, communities in which ink manufacturing plants are located, and international trade. In addition, the Development Document describes, in section VIII, the cost and energy consumption implications of the proposed regulations.

The two reports described above in the aggregate exceed 100 pages in length and contain a substantial number of charts, diagrams, and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in foregoing portions of this preamble. Additional discussion is contained in the following analysis of comments received and the Agency's response to them. As has been indicated, both documents will be made available for inspection at the Agency's Washington, D.C. and regional offices and at State water pollution control agency offices. Copies of each have been distributed to persons and institutions affected by the proposed regulations or who have placed themselves on a mailing list for this purpose. Finally, so long as the supply remains available, additional copies may be obtained from the Agency as described above.

When this regulation is promulgated, revised copies of the Development Document will be available from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the Economic Analysis will be available through the National Technical Information Service, Springfield, Virginia, 22151.

(c) Summary of public participation. Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the developent of effluent limitations, guidelines and standards proposed for the printing ink formulating category. All participating agencies have been informed of project developments. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. The following are the principal agencies and groups consulted: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and U.S. Territory Pollution Control Agencies; (3) National Association of Printing Ink Manufacturers; (4) U.S. Department of the Treasury; (5) Government of Guam and Government of Samoa Trust Territories of the Pacific Island; (6) Puerto Rico; (7) The Conservation Foundation; (8) American Society of Mechanical Engineers; (9) Hudson River Sloop Restoration, Inc.; (10) Conservation Foundation; (11) Businessmen for the Public Interest; (12) Environmental Defense Fund, Inc.; (13) Natural Resources Defense Council; (14) American Society of Civil Engineers; (15) National Wildlife Federation; (16) Water Pollution Control Federation; (17) Ohio River Valley Sanitation Commission; (18) New England Interstate Water Pollution Control Commission; (19) Delaware River Basin Commission; (20) U.S. Department of Health, Education, and Welfare; (21) U.S. Department of Commerce; (22) U.S. Department of Agriculture; (23) Water Resources Council; (24) U.S. Department of the Interior; (25) Inmont Corporation; (26) East Bay Municipal Utilities District; (27) Sun Chemical Corporation; (28) Borden Company; (29) Wellco Chemical Company and (30) Cities Service.

The following responded with comments: New York Department of Environmental Conservation; Delaware River Basin Commission; Minnesota Water Pollution Control Agency; Colorado Department of Health; U.S. Water Resources Council; U.S. Department of Agriculture; Delaware Department of Natural Resources; North Carolina Department of Natural and Economic Resources; California State Water Resources Board; Sun Chemical Corporation; Inmont Corporation and the National Association of Printing Ink Manufacturers.

The primary issues raised in the development of the proposed effluent limitations guidelines and standards of performance and the treatment of these issues herein are as follows:

(1) Several commenters were concerned that the no discharge provision would be used by municipal governments to stop the discharge of printing ink manufacturing wastes into municipal sewers, even though the printing ink manufacturers have historically discharged to municipal systems.

If municipalities apply equitably the EPA regulations on pretreatment standards (40 CFR 128), there should be no major impact on ink makers.

(2) Of major concern to several commenters was the problem of disposal of the large quantities of sludge to landfills as many local agencies are severely restricting substances that can be placed in landfills.

As the requirements for air and water pollution control are increased, the residual solids will increase. Where possible, these residuals should be recycled or reclaimed. Incineration and secure landfills are considered environmentally adequate for disposal of these types of wastes. Ink and paint manufacturers concerned with adequate land disposal may have to seek out or cause the creation of adequate, secure disposal sites.

(3) Most of the reviewers agreed with the guidelines.

(4) Questions have been raised concerning the availability of standards or guidelines applicable to the disposal of solid wastes resulting from the operation of pollution control systems.

The principles set forth in "Land Disposal of Solid Wastes Guidelines" (40 CFR 241) may be used as guidance for acceptable land disposal techniques. Potentially hazardous wastes may require special considerations to ensure their proper disposal. Additionally, state and local guidelines and regulations should be considered wherever applicable.

All comments received by March 28, 1975 will be considered. Steps previously taken by the Environmental Protection Agency to facilitate public response within this time period are outlined in the advance notice concerning public review procedures published on August 6, 1973 (38 FR 21202).

Dated: February 12, 1975.

JOHN QUARLES,
Acting Administrator.

PART 447—PRINTING INK FORMULATION POINT SOURCE CATEGORY

Subpart A—Oil-Base Ink Subcategory

Sec.

447.10 Applicability; description of the oil-base ink subcategory.
447.11 Specialized definitions.
447.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
447.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

Sec.
447.14 [Reserved.]
447.15 Standards of performance for new sources.
447.16 Pretreatment standards for new sources.

Subpart B—Water-Base Ink Subcategory

447.20 Applicability; description of the water-base ink subcategory.
447.21 Specialized definitions.
447.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
447.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
447.24 [Reserved.]
447.25 Standards of performance for new sources.
447.26 Pretreatment standards for new sources.

Subpart A—Oil-Base Ink Subcategory

§ 447.10 Applicability; description of the oil-base ink subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of oil-base printing ink. When a plant is subject to effluent limitations covering more than one subcategory, the discharge limitation shall be the aggregate of the limitations applicable to the total production covered in each subcategory.

§ 447.11 Specialized definitions.

For the purpose of this subpart:

Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 447.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.14 [Reserved]

§ 447.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the oil-base ink subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 447.15; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

Subpart B—Water-Base Ink Subcategory

§ 447.20 Applicability; description of the water-base ink subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of water-base ink. When a plant is subject to effluent limitations covering more than one subcategory the discharge limitation shall be the aggregate of the limitations applicable to the total production covered in each subcategory.

§ 447.21 Specialized definitions.

For the purpose of this subpart:

Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

§ 447.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.24 [Reserved]

§ 447.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

§ 447.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the water-base ink subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows: "In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 447.25; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant."

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DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

■

ELDERLY AND HANDICAPPED TRANSPORTATION SERVICES

Codification of Requirements

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

[49 CFR Part 609]

[Docket No. 74-03, Notice 1]

ELDERLY AND HANDICAPPED TRANSPORTATION SERVICES

Codification of Requirements

The Urban Mass Transportation Administration (UMTA) is considering issuing regulations to codify existing requirements and establish new requirements related to transportation services for the elderly and the handicapped.

Section 16(a) of the Urban Mass Transportation Act of 1964, as amended, states that elderly and handicapped persons have the same right as other persons to utilize mass transportation facilities and services. This section further directs that special efforts be made in the planning and design of mass transportation facilities and services to ensure the availability of transportation which can be effectively utilized by elderly and handicapped persons. Section 165(b) of the Federal-Aid Highway Act of 1973, as amended, extends the mandate of section 16 to mass transportation projects funded under the Federal-aid highway programs of title 23, United States Code.

THE ELDERLY AND HANDICAPPED PUBLIC

Dimensions. At the time of the 1970 Census there were 20,066,000 people in the United States age 65 and over, of whom 56 percent live in urbanized areas (50,000 population). The per capita income of the elderly tends to be above the level for persons under age 65, although the proportion of elderly below the poverty threshhold is higher than that of the population as a whole. Approximately 7 million of the elderly, or just over one-third, are handicapped to a degree such that the use of mass transportation services is difficult or impossible. The aging are generally concentrated in older neighborhoods of cities, in special retirement developments or communities, and in regions with warm climates. Like most of the general population, the elderly make the overwhelming majority of trips by car, as either drivers or passengers. On the other hand, there are large segments of the elderly population that are either rural or urban poor, and a large number that do not have access to private transportation.

Roughly, 6,340,000 persons under the age of 65 suffered from handicaps that would cause them difficulties in using mass transit systems, taking into account non-institutionalized handicapped persons with chronic visual and hearing impairments, those using mobility aids such as walkers, wheelchairs, crutches and canes, and those with other special mobility limitations, aids and acute conditions. Together with the one-third of the elderly who also suffer from handicaps, the total estimate of the transit-dysfunctional handicapped is 13,370,000 as of the 1970 Census.

The total population that is elderly or handicapped, with no double-counting, was estimated at 26,506,000 in 1970. Of this total, approximately 14.8 million persons live in urbanized areas. Unlike the elderly, the handicapped are widely dispersed throughout the population. The latest information available indicates that the number of able-bodied elderly and the number of handicapped (elderly and non-elderly) are approximately equal. The majority of persons who are handicapped suffer from some mobility limitation short of using crutches, wheelchairs or walkers (8,800,000), have visual impairments (1,970,000), or have acute conditions (e.g., broken legs) (490,000). There are estimated to be 430,000 persons who use a wheelchair, 410,000 persons who use a walker, and 330,000 deaf persons. (Unless otherwise specified, all statistics are drawn from the U.S. Department of Transportation's 1973 study entitled "The Handicapped and Elderly Market for Urban Mass Transit.")

Travel barriers. Not all of the elderly or the handicapped experience significant mobility limitation. An affluent, able-bodied, elderly driver, for example, has transportation experiences and needs quite different from that of either a handicapped nondriver of limited financial resources or an able-bodied poor elderly person in an automobile-oriented area. To the degree to which the elderly and/or handicapped have transportation difficulties, however, they tend to cluster around these areas: (1) Cost of obtaining service; (2) availability of service; and (3) physical demands made on passengers by the design of transportation facilities and equipment. Section 5 of the Urban Mass Transportation Act of 1964, as amended, mandates a one-half fare or less at non-peak hours for the elderly and handicapped on mass transportation systems receiving UMTA operating assistance. UMTA is implementing the half-fare requirement through the grant process. See 40 FR 2537.

This proposed rule deals primarily with the service and hardware aspects of the public transportation for the elderly and the handicapped. First, this proposed rule would require local transportation planners and operating officials to identify the travel requirements of elderly and handicapped persons and to develop specific plans and programs to meet these requirements. It would further condition the approval of grants for capital assistance on the development and implementation of such plans and programs. Second, the proposed regulations would prescribe design standards for mass transportation equipment and facilities in order to diminish the impediments to their use by persons with physical impairments.

The proposed rule. Persons who had the opportunity to review and comment on the original draft proposed rule that was discussed at public meetings in November 1974 will notice several substantial changes that have been made in response to comments from elderly and handicapped groups, transit planners, transit operators, governmental agencies and manufacturers of transit equipment.

First, every effort has been made to make it clear that the persons who are special beneficiaries of the statutes mandating service to the elderly and handicapped are members of the general public and an important potential market for transit service. Much of the terminology that the elderly and handicapped users indicated that they found offensive has been eliminated, and the regulation recast in the language of equipment features rather than characteristics of elderly or handicapped users. The requirements for special attention to their specific needs in planning and programming have been retained because the governing statutes require "special efforts" and because of the need for administrative control.

Second, a number of the requirements have been restated as performance rather than design standards, in response to user, operator and manufacturer comments indicating reservations with respect to the wisdom, safety and usefulness of some of the proposed rules and the fact that some of the features intended to confer a benefit on some handicapped users were viewed as creating a potential hazard for other handicapped users. Mandatory arm rests, for example, were deleted for this reason. The inclusion and specific design of many features has therefore been left to local option, with a requirement that the issues involved be discussed at the public hearings on the grant application.

Third, the effective dates of the requirements have been accelerated so that the main body of the requirements will be effective either 30 days after final publication of the regulations or within the next fiscal year's funding cycle. Specific effective dates for accessibility requirements in the proposed regulation denote features that are beyond the present state of the art or are now commercially unavailable and thus will require product development, tooling or retooling.

Planning. The elderly and handicapped form an important segment of the potential market for mass transportation services. Very little is known, however, about their actual mobility requirements and options, which will vary depending on their income, degree of personal independence, proximity to existing transit, access to automobiles, attitude towards public transportation and/or special services and a variety of other highly individual factors. Because of these individual factors, it may be fallacious to use perceived mobility need as a surrogate for estimates of potential transit use. The purpose of the planning requirement in this proposed regulations is to ensure that careful thought and study is given to the issue at the local level in view of the great variety among urban areas and the varying stages of development of transit service within those areas.

Subpart B requires the immediate commencement of unified planning work

program elements leading to the development of a regional plan for meeting the transportation needs of elderly and handicapped persons. UMTA grantees of planning assistance have already been instructed to be prepared to meet this requirement beginning with the 1975–76 planning cycle. Effective October 1, 1976, the five-year transportation improvement programs and plans (which are a precondition to the receipt of UMTA capital assistance) must include an element designed to analyze and meet the transportation needs of elderly and handicapped persons. The annual element of the program will be reviewed by the Urban Mass Transportation Administrator.

Capital assistance. The capital assistance application procedures of Subpart C are designed to ensure that the programs planned under Subpart B will be implemented. Prior to October 1, 1976, each capital grant application must incorporate assurances that the planning is under development and that the other requirements of this part are being met. After October 1, 1976, the capital grant application must either incorporate specific requests for funding parts of the program required by Subpart B or must indicate when such requests will be forthcoming. Since the program itself will be available to UMTA representatives through the unified work program, it will not be necessary to include it in every capital grant application. The specific design of accessibility features that are left to local option must be discussed at the public hearing on the capital grant application.

1. *Fixed facilities.* Section 609.15 requires that stations, terminals, buildings or other facilities designed, constructed or altered after the effective date of these regulations will be controlled by the minimum standards contained in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, Number A117.1–1961," the so-called ANSI standards. The definitions, waiver and exception provisions of this section are consistent with those adopted by the General Services Administration. These standards will apply not only to facilities intended for use by the public but also to other buildings in which handicapped persons may be employed as a result of the inclusion of accessibility features.

In addition to the ANSI standards, UMTA is proposing standards with respect to features that are unique to transit facilities: passenger pick-up and drop-off facilities ("kiss and ride"), fare collection systems, passenger information systems, and boarding platforms. All of these requirements are designed to be consistent with the ANSI standards, and are within the existing technical state of the art.

2. *Transit Vehicles.* The premise of this proposed regulation is that standard transit equipment designed to serve the general public ought to be made physically accessible to the maximum extent feasible to elderly and handicapped users who have a level of personal mobility and independence such that their use of public transportation, were accessibility features provided, would be a reasonable expectation. As indicated earlier in this preamble, roughly half of the population specifically benefitted by these rules consists of the essentially able-bodied elderly, who tend to suffer to some degree from the ailments statistically correlated with aging—visual impairment, hearing impairment, general physical weakness and personal insecurity. In a substantial number of the elderly, these difficulties have progressed to the point where they may pose a hindrance if not an absolute obstacle to transit use. Many of the proposed regulations are intended to provide interior design features that will make transit use easier for these users by easing the physical demands that the vehicle makes on the passenger. All transit vehicles purchased with funds from grants made after the effective date of these regulations will therefore be required to have padded interior handrails and stanchions, slip-resistant floor surfaces, priority seating arrangements, improved interior lighting, vehicle destination signs that are designed and located for maximum visibility, public address systems, barrier-free fare collection arrangements, improved door control mechanisms and an additional retractable lower step to minimize passenger difficulty in entering the vehicle. Some of this equipment is not currently available commercially. UMTA welcomes comment in particular on the appropriate effective dates for redesigned door control mechanisms, retractable lower steps and destination signs in view of the product development process that would be required. UMTA would also welcome comment on the effect of these requirements on current commuter rail technology.

The regulations differentiate between vehicle types for reasons that are partly technological, partly practical. The requirements for step-entry vehicles are made applicable to vehicles of a length in excess of 22 feet, which includes both full-sized standard transit vehicles and minibuses but not small specialized vans for which many of the requirements are inappropriate.

The regulations further differentiate between vehicles that do not require a passenger to make an unassisted level change in boarding the vehicle and those that do so require. Rapid rail facilities and other grade-separated systems such as personal rapid transit, for example, are built so that the passenger platform is at the same approximate height as the entrance to the vehicle, making it possible for a passenger to roll or walk into the car. UMTA proposes to require in § 609.17 that all such vehicles and their related facilities should be accessible to passengers in wheelchairs, that the interface between the vehicle and the platform should be as close as is technologically feasible in order to facilitate access, and that the interior of the vehicle should be designed to accommodate and secure the wheelchair. No proven wheelchair securement device is available commercially at the present time; UMTA welcomes comment on an appropriate effective date for this requirement.

Some transit modes—e.g., buses, light rail, commuter rail—operate at grade, typically in the stream of ordinary street traffic, and require the passenger to step up into the vehicle from the street or curb. The design of these vehicles assumes that the prospective passenger can make such a change in level unassisted, and with sufficient speed and dexterity to allow for a more or less steady flow of passengers making similar movements on and off the vehicle. The current generation of bus and trolley standard transit equipment does not contemplate a mechanical device to assist passengers in changing levels. Although there are some such devices in use on equipment designed especially for service to the handicapped, there is no device presently developed and proven reliable for use in a standard forty-foot urban transit bus or light rail vehicle. The proposed regulations would therefore require the development of a new stairwell on these vehicles with an initial step height from the ground of no more than 8 inches (the current bus requires the passenger to step up 15 inches), and tread depth of at least 10 inches. We invite comment on an appropriate implementation date for this requirement, which should be of great assistance to the entire class of elderly and handicapped users as well as the able-bodied members of the general public. The interior of the vehicles will be subject to the design standards of § 609.19.

A major UMTA research and development effort to design a new generation of transit equipment may be on the verge of providing a solution to the level-changing problem on at-grade vehicles. The three Transbus prototypes, currently undergoing operational demonstrations in major urban centers, are each equipped with level-changing devices—ramps in the case of the Rohr and AM General models, a lift in the case of the GM model. Most importantly from the point of view of the great majority of elderly and handicapped users who can negotiate steps but who find the steps on the current bus uncomfortably steep, the Transbus will have a lower floor and a two-step rather than three-step entry.

The Urban Mass Transportation Administrator has recently issued a policy statement on Transbus which indicates that UMTA will develop a performance specification based on the prototypes, and that if no unforeseen problems develop the performance specification will require a low-floor bus plus a ramp or lift device to accommodate wheelchair users. UMTA is currently exploring the development of such a device for future inclusion on the new generation of light rail vehicles developed also under its R&D program. Interior design features intended to facilitate use of the equipment by elderly and handicapped passengers will of course also be required. The completion of Transbus prototype testing is currently scheduled for August 1975; the performance specification will be developed concurrently, and the first of the new buses should be in revenue

service by late 1977 or early 1978. The UMTA decision to proceed with a performance specification rather than a detailed design specification has accelerated significantly the anticipated availability of the Transbus.

In addition to this effort, UMTA has also recently announced the award of a study contract to determine the optimum specific characteristics of a small bus used in transit service. The study will focus special attention on the contribution that such vehicles can make toward meeting the needs of the elderly and handicapped persons.

Contacts with parties prior to notice. UMTA issued a notice of meeting in the November 12, 1974 FEDERAL REGISTER, inviting interested parties to review and comment on a tentative draft regulation at informal hearings held November 25, 26, and 27 at the U.S. Department of Transportation headquarters in Washington, D.C. The hearings were held in order to solicit constructive comments from elderly and handicapped persons, operators of mass transportation systems, and manufacturers of mass transit equipment prior to UMTA's formulation of the proposed rule.

Statements made at these hearings by representatives of elderly and handicapped users favored all measures that would eliminate physical barriers to mass transportation systems, particularly for the wheelchair user. The concept of a totally separate transportation system for the elderly and handicapped in lieu of accessibility features on standard equipment was opposed by these representatives because they felt that such a system would segregate the users from the rest of the public and could obviate efforts directed toward full accessibility.

Representatives of the transit operators emphasized the need for flexibility at the local level in determining the appropriate service for the elderly and handicapped public within each urbanized area. The specific suggestions of the transit operators were submitted to UMTA on December 20, 1974 by the American Public Transit Association in the form of a completely re-drafted proposed regulation.

The manufacturers who attended these preliminary hearings stressed the need for performance standards rather than design specifications to permit maximum flexibility and creativity in producing equipment modifications for elderly and handicapped persons. Most representatives were optimistic about being able to produce the necessary hardware to satisfy the transportation needs of the elderly and handicapped, assuming adequate lead-time for designing new equipment and re-tooling production lines.

The opinions and suggestions presented at the hearings and submitted to UMTA in the subsequent comment period have been carefully considered in the vision of this proposed regulation.

Public comments and regional public hearings. UMTA welcomes comments on the proposed rule, particularly written comments that suggest specific ways in which the regulations may be improved. Interested parties are invited to participate in the making of the rule by submitting to UMTA such written data, views, or arguments as they may desire. Communications should identify the regulatory docket (No. 74-03) and be submitted to the following address: Urban Mass Transportation Administration, Office of the Chief Counsel, Docket No. 74-03, Room 9320, 400 7th Street SW., Washington, D.C. 20590. All written communications received on or before April 30, 1975, will be considered by the Urban Mass Transportation Administrator before action is taken on the proposed rule. The proposed rule contained in this notice may be changed as a result of comments received. All comments submitted will be available, both before and after the closing date for comment in the Office of the Chief Counsel for examination by interested parties.

In order to increase the opportunity for comments which can be used to evaluate and improve the proposed rule, UMTA will hold six public hearings during the public comment period. The hearings will be held on the following schedule in the indicated cities:

Monday, April 7, 1975—Los Angeles, California
Wednesday, April 9, 1975—Denver, Colorado
Friday, April 11, 1975—Chicago, Illinois
Tuesday, April 15, 1975—St. Petersburg, Florida
Thursday, April 17, 1975—Boston, Massachusetts
Tuesday, April 22, 1975—Washington, D.C.

Exact locations will be published in the FEDERAL REGISTER no later than March 7, 1975, and also in local daily newspapers at least 30 days before the hearing and again within 10 days before the hearing. Each hearing will have a daytime session beginning at 9:30 a.m. and an evening session beginning at 7:30 p.m.

The hearings will be informal in nature and will be conducted by a senior UMTA official representing the Administrator. At each hearing an UMTA spokesman will make a brief opening statement. Since the hearings will not be of the evidentiary or judicial type, there will be no cross-examination of those persons presenting statements. However, interested persons wishing to make rebuttal statements may do so in the same order as the initial statements were made.

All interested persons are invited to attend the hearings, and each such person is invited to present oral or written statements concerning the proposed rule at one of the hearings. Persons making oral statements are strongly encouraged to submit the substance of their remarks in written form either at the hearing or by mail to the Office of the Chief Counsel, Docket No. 74-03 (see address above) in time to arrive on or before April 30, 1975.

The sequence of speakers at each hearing will be based on the order of registration. Persons who wish to ensure an opportunity to speak should register in advance of the hearing by notifying UMTA of the date, city, session (daytime or evening), and amount of time requested. Such requests for advance registration must be made by mail to the Office of the Chief Counsel, Docket 74-03 (see address above).

If a very large number of persons request an opportunity to speak at a given hearing, UMTA reserves the right to restrict the length of time allowed for each oral statement in order to give the maximum number of persons the opportunity to be heard.

This amendment to title 49, Code of Federal Regulations, is proposed under the authority of sections 5 and 16, Urban Mass Transportation Act of 1964, as amended (49 U.S.C. §§ 1604, 1612); section 165(b), Federal-Aid Highway Act of 1973, as amended (23 U.S.C. § 142nt.); section 504, Rehabilitation Act of 1973 (29 U.S.C. § 794); and 49 CFR § 1.50. Section 315 of the Department of Transportation and Related Agencies Appropriations Bill of 1975, although not part of UHTA's permanent and substantive statutory authority, provides an additional basis for these regulations.

In consideration of the foregoing, it is proposed to amend chapter VI of title 49 of the Code of Federal Regulations by adding a new part 609 as set forth below.

Issued on February 21, 1975.

FRANK C. HERRINGER,
Urban Mass Transportation Administrator.

PART 609—ELDERLY AND HANDICAPPED

Subpart A—General

Sec.
609.1 Purpose.
609.3 Definitions.
609.5 Applicability.
609.7 Waiver.

Subpart B—Requirements for Transportation Planning

609.9 Transportation planning in urbanized areas.
609.11 Transportation planning in nonurbanized areas.

Subpart C—Requirements for Capital Assistance Projects

609.13 Applications for capital assistance.
609.15 Fixed facilities.
609.17 Level-entry vehicles.
609.19 Step-entry vehicles.

Subpart D—Requirements for Formula Apportionment Projects

609.21 Capital projects receiving formula assistance.
609.23 Reduced fare.

AUTHORITY: Sec. 5 and 16, Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604, 1612); sec. 165(b), Federal-Aid Highway Act of 1973, as amended (23 U.S.C. 142nt.); section 504, Rehabilitation Act of 1973 (29 U.S.C. 794); 49 CFR 1.50.

Subpart A—General

§ 609.1 Purpose.

The purpose of this part is to establish formally the requirements of the Urban Mass Transportation Administration (UMTA) on the subject of transportation services for elderly and handicapped persons.

§ 609.3 Definitions.

As used herein:

"Elderly person" means any individual age 65 or over.

"Handicapped person" means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including those who are nonambulatory wheelchair-bound and those with semiambulatory capabilities, is unable without special facilities or special planning or design to utilize mass transportation facilities and services as effectively as persons who are not so affected.

"Level-entry vehicle" means any vehicle which does not require the passenger to negotiate a step or steps, or to use a level-change mechanism such as a lift or ramp, in order to board and exit.

"Step-entry vehicle" means any vehicle which requires the passenger to negotiate a step or steps, or to use a level-change mechanism such as a lift or ramp, in order to board and exit.

§ 609.5 Applicability.

(a) This part, which applies only to projects approved by the Urban Mass Transportation Administrator after the part's effective date, applies to all transit planning, capital assistance, and operating assistance projects receiving Federal financial assistance under sections 3, 5, or 9 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1602, 1604, or 1607a), and all projects receiving Federal financial assistance under (1) subsection (a) or (c) of section 142 of title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, and (3) section 147 of the Federal-Aid Highway Act of 1973, as amended. Subpart C (Requirements for Capital Assistance Projects) expressly applies to capital assistance projects receiving Federal financial assistance under any of the above statutes.

(b) Unless otherwise noted, this part is effective 30 days after publication of the final regulation in the FEDERAL REGISTER. Where a requirement in this part includes a specific effective date, such requirement applies to facilities and equipment in projects approved by the Urban Mass Transportation Administrator after such effective date.

§ 609.7 Waiver.

The requirements set forth in this part may be modified or waived on a case-by-case basis upon application to the Urban Mass Transportation Administrator if the Administrator determines that such waiver or modification is clearly necessary and is consistent with the intent of the laws cited under "Authority." Any request for waiver of any provision of these regulations must be presented for comment at the public hearing required prior to submission of a project application to UMTA.

Subpart B—Requirements for Transportation Planning

§ 609.9 Transportation planning in urbanized areas.

(a) The requirements in this section apply to transit planning for all urbanized areas. General requirements for transportation planning in urbanized areas have been published in a joint Federal Highway Administration-UMTA notice of proposed rulemaking at 39 FR 39660.

(b) All unified work programs for planning which include funding requests for UMTA planning assistance shall include work items for the metropolitan planning organization with the participation of public transportation agencies of the region, sufficient to develop or maintain a regional plan and program for meeting the transportation needs of elderly and handicapped persons. The regional implementation plan and schedule shall provide for an annual review of unmet needs by representatives of health, welfare, comprehensive planning, and transportation agencies of the region.

(c) Transportation improvement programs and transportation plans submitted to UMTA on or after October 1, 1976, shall include an element designed to meet the transportation needs of elderly and handicapped persons. At a minimum this element of these programs and plans shall include:

(1) An identification of the elderly and handicapped persons within the urbanized area, their location in relation to regular route transit services, and the type and approximate number of trips projected to be taken on public transportation (purpose, time of day, origins and destinations);

(2) A description of the public and private resources presently devoted to meeting the transportation needs of the elderly and handicapped persons in the urbanized area;

(3) A description of the public and private transportation services currently in the urbanized area and the degree to which they contribute to meeting the transportation needs of elderly and handicapped persons; and, if all the public transportation needs of elderly and handicapped persons are not being met by those services, an explanation of the nature of and reasons for the deficiency.

(4) A range of alternative service improvements for meeting the transportation needs of elderly and handicapped persons, and the justification for selecting a specific alternative from among those available. The selected alternative may draw on more than one method of service improvement.

(d) The elderly and handicapped portion of the annual element of the transportation improvement program is subject to the approval of the Urban Mass Transportation Administrator.

§ 609.11 Transportation planning in nonurbanized areas.

Effective October 1, 1976, in nonurbanized areas planning equivalent to that required by § 609.9 must be accomplished on an appropriate scale before a capital assistance project can be approved for that area.

Subpart C—Requirements for Capital Assistance Projects

§ 609.13 Applications for capital assistance.

(a) Before October 1, 1976, each application for capital assistance shall provide an assurance that:

(1) A definite plan and program for meeting the transportation needs of the elderly and handicapped persons is under development or completed pursuant to §§ 609.9 and 609.11.

(2) All valid alternatives for meeting the transportation needs of elderly and handicapped persons have been or will be evaluated in the development of the plan and program.

(3) The provisions in the project for elderly and handicapped persons, and the relationship of this project to the plan and program required by §§ 609.9 and 609.11, have been explained at the public hearing required during the application process. When the application involves new rolling stock, details on the features of that equipment, including stanchion and handrail configurations, fare collection equipment, and priority seating arrangements that particularly serve elderly and handicapped persons shall be presented at the public hearing. Persons desiring to comment on that explanation at the public hearing must be heard. Evidence of the applicant's response to such comments shall be included in the application.

(4) All facilities and equipment contained in the project will meet the applicable requirements of this part.

(b) After October 1, 1976, each application for capital assistance shall provide an assurance that:

(1) A definite plan and program for meeting the transportation needs of the elderly and handicapped has been developed pursuant to §§ 609.9 and 609.11.

(2) All valid alternatives have been evaluated in the development of the proposed plan and program;

(3) The application requests funding for those projects or items accorded current implementation priority under the plan and program required by §§ 609.9 and 609.11. If the application does not include all such projects or items, the application must include a justification satisfactory to the Urban Mass Transportation Administrator and a proposed schedule for submission of appropriate applications.

(4) The provisions in the project for elderly and handicapped persons, and the relationship of this project to the plan and program required by §§ 609.9 and 609.11, have been explained at the

public hearing required during the application process. When the application involves new rolling stock, details on the features of that equipment, including stanchion and handrail configurations, fare collection equipment, and priority seating arrangements that particularly serve elderly and handicapped persons shall be presented at the public hearing. Persons desiring to comment on that explanation at the public hearing must be heard. Evidence of the applicant's response to such comments shall be included in the application.

(5) All facilities and equipment contained in the project will meet the applicable requirement of this part.

§ 609.15 Fixed facilities.

(a) Except as otherwise provided in paragraph (b) of this section, every fixed facility—including every station, terminal, building, or other facility—designed, constructed, or altered after the effective date of this part, which either will require that such fixed facility be accessible to the public or may result in the employment therein of physically handicapped persons, shall be designed, constructed, or altered in accordance with (1) the minimum standards contained in the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped, Number A117.1—1961," approved by the American Standards Association, Inc. (subsequently changed to American National Standards Institute, Inc.) [ANSI], and (2) the additional standards of paragraph (d) of this section.

(b) The standards established in paragraph (a) of this section do not apply to:

(1) The design, construction, or alteration of any portion of a fixed facility which need not, because of its intended use, be made accessible to, or usable by, the public or by physically handicapped persons;

(2) The alteration of an existing fixed facility if the alteration does not involve the installation of, or work on, existing stairs, doors, elevators, toilets, entrances, drinking fountains, floors, telephone locations, curbs, parking areas, or any other facilities susceptible of installation or improvements to accommodate the physically handicapped;

(3) The alteration of an existing fixed facility, or of such portions thereof, to which application of the standards is not structurally possible; and

(4) The construction or alteration of a fixed facility for which bids have already been solicited or plans and specifications have been completed or substantially completed after the effective date of this part.

(c) The final project application for any project that includes the design, construction, or alteration of a fixed facility subject to paragraph (a) of this section shall contain one of the following: (1) An assurance that the standards of paragraph (a) of this section will be adhered to in the design, construction, or alteration of such facility; (2) a request for a finding that the project is within one of the exceptions set out in paragraph (b) of this section, with appropriate supporting material; or (3) a request for waiver of the standards of paragraph (a) of this section. In any case in which a waiver or exception is requested, the grounds therefor shall be presented and discussed at the public hearing on the proposed project; any person seeking to comment thereon shall be heard and his comments responded to on the record of the public hearing.

(d) In addition to the ANSI standards of paragraph (a) of this section, the following standards apply to fixed facilities covered by that paragraph.

(1) Passenger pick-up and drop-off facilities: Stations with automobile passenger pick-up and drop-off facilities shall provide at least one stopping area identified for the use of handicapped persons. This stopping area shall have minimum dimensions of 12 feet wide and 22 feet long, and shall be located as near as possible to the station entrance(s) and exit(s) accessible to handicapped persons.

(2) Fare collection systems: The fare vending system shall be designed so as not to prevent effective utilization of the transportation system by passengers with physical impairments. Each fare control area shall include at least one entrance with a clear opening of at least 36 inches when open for the use of persons who use mobility aids.

(3) Information systems: Passenger waiting and boarding areas in major, enclosed stations shall have both public address and visual announcement systems for announcing transit information, including vehicle arrival, departure, destination, and route designation.

(4) Boarding platforms: All boarding platform edges bordering a drop-off or other dangerous condition shall be marked with a warning device consisting of a strip of floor material differing in color and texture from the remaining floor surface. The design of boarding platforms for level-entry vehicles shall be coordinated with the vehicle design in order that the difference in elevation between platform and vehicle doorway not exceed 1.5 inches and the horizontal gap between platform and vehicle doorway not exceed 2 inches.

§ 609.17 Level-entry vehicles.

(a) New level-entry vehicles shall be accessible to elderly and handicapped persons and shall conform to the standards of this section.

(b) Entrances and exits: (1) Vehicle entrances and exits shall have a clear opening of at least 36 inches. If the entire system is not fully accessible, entrances and exits to fully accessible vehicles shall be identified on the vehicle exterior as accessible to handicapped persons. Vehicle doors shall open automatically and shall be equipped with devices which prevent vehicle motion when the door is open, prevent door closure on any person or object in the doorway, and prevent door opening when the vehicle is in motion. Warning signals shall be provided to alert elderly and handicapped passengers of closing doors.

(2) The design of level-entry vehicles shall be coordinated with the boarding platform design in order that the difference in elevation between platform and vehicle doorway not exceed 1.5 inches and the horizontal gap between platform and doorway not exceed 2 inches.

(c) Priority seating signs: Each vehicle shall contain clearly legible sign(s) which mark specific seats to be made available to elderly and handicapped persons when they are present. The proposed location of the signs and seats shall be presented at the hearing required by § 609.13(b)(4).

(d) Wheelchair securement devices and travel clearance: (1) Effective January 1, 1976, at least one wheelchair securement device shall be provided inside the vehicle, as near as possible to the entrance(s) accessible to handicapped persons. The device(s) shall be located so that the secured wheelchair does not impede the mobility of the nonhandicapped passenger.

(2) Sufficient travel clearance shall be provided to enable the wheelchair user to reach the securement position with minimal movements and manipulation of the wheelchair.

(3) The securement device shall be operable by the wheelchair user and shall be attached to the vehicle structure with integrity comparable to that of seat mounting.

(4) The wheelchair securement device is not required for a level-entry vehicle which is operated on a system which has fewer than two wheelchair-accessible stations.

(e) Interior handrails and stanchions: Padded handrails and stanchions shall be sufficient to permit safe boarding, onboard circulation, seating assistance, and unboarding by passengers with physical impairments.

(f) Floor surface: All floors shall have slip-resistant surfaces.

(g) Lighting: The interior of the vehicle shall average between 15 and 30 footcandles of illumination measured at 36 inches above the floor, except that when the vehicle has an open operator's position, the level of illumination shall not exceed 8 footcandles.

(h) Public address system: Vehicles shall be equipped with a public address system audible throughout the vehicle.

(i) Destination and route signs: (1) This paragraph is effective January 1, 1976.

(2) Each vehicle or train shall have a sign on the front of the vehicle or train exterior. The sign shall include the route designation or destination or both in characters 6 inches high.

(3) Each vehicle or train shall have a sign on the boarding side of the vehicle or train exterior. This sign shall include the route designation or destination or both in characters at least 4 inches high.

§ 609.19 Step-entry vehicles.

(a) The requirements of this section apply to all new step-entry vehicles with a length of at least 22 feet.

(b) Entrances and exits: (1) Vehicles shall be equipped with device(s) which prevent vehicle motion when the door is open, prevent door closure on any person or object in the doorway, and prevent door opening when the vehicle is in motion.

(2) Effective January 1, 1976, the maximum height of each step from street level to vehicle floor level shall be uniform and no more than 8 inches; the depth of tread of each step shall be uniform and at least 10 inches. The step surfaces of retractable steps shall be designed to resist the collection of snow, slush, and dirt.

(c) Fare collection: Vehicle fare collection arrangements shall be designed so as not to prevent effective utilization of the vehicle by passengers with physical impairments.

(d) Priority seating signs: Each vehicle shall contain clearly legible sign(s) which mark specific seats to be made available to elderly and handicapped persons when they are present. The proposed location of the signs and seats shall be presented at the hearing required by § 609.13(b)(4).

(e) Interior handrails and stanchions: Padded handrails and stanchions shall be sufficient to permit safe boarding, fare collection, on-board circulation, seating assistance, and unboarding by passengers with physical impairments.

(f) Floor and step surfaces: All floors and steps shall have slip-resistant surfaces.

(g) Lighting: (1) The interior of the vehicle shall average between 15 and 30 footcandles of illumination measured at 36 inches above the floor, except in the immediate vicinity of the vehicle operator's position where the level of illumination shall not exceed 8 footcandles.

(2) Stairwells shall have between 2 and 5 footcandles of illumination measured on the step tread.

(3) The vehicle shall have light(s) which provide 2 to 5 footcandles of illumination measured on the road, sidewalk, or platform 2 feet away from the vehicle's entrance and exit in a horizontal direction.

(h) Public address system: Vehicles shall be equipped with public address systems audible inside and outside the vehicle.

(i) Destination and route signs: (1) This paragraph is effective January 1, 1976.

(2) Each vehicle shall have an illuminated sign on the front of the vehicle exterior. The sign shall include the route designation or destination or both in characters 6 inches high.

(3) Each vehicle shall have illuminated signs on the boarding side and rear of the vehicle exterior. These signs shall include the route designation or destination or both in characters at least 4 inches high.

(4) Illuminated signs shall be free of extraneous light.

Subpart D—Requirements for Formula Apportionment Projects

§ 609.21 Capital projects receiving formula assistance.

Sections 609.15 through 609.21 apply to all construction and other capital assistance projects receiving Federal financial assistance under section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604).

§ 609.23 Reduced fare.

Applicants for Federal financial assistance under section 5 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1604), must, as a condition to receiving such assistance, give satisfactory assurances, in such manner and form as may be required by the Urban Mass Transportation Administrator and in accordance with such terms and conditions as the Urban Mass Transportation Administrator may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing or involving the facilities and equipment of the project financed with assistance under this section will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise.

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